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LAWS

OF THE

TERRITORY OF IDAHO

TENTH SESSION,

CONVENED ON THE

THIRTEENTH DAY OF JANUARY, 1879, AND ADJOURNED ON THE TWENTY-FIRST DAY OF FEBRUARY, 1879,

AT

BOISE CITY.

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1879

CERTIFICATE.

TERRITORY OF IDAHO,
Secretary's Office.

I HEREBY CERTIFY that the Laws, Acts, Resolutions and Memorials contained in this printed volume are true and literal copies of all the enrolled Laws, Acts, Resolutions and Memorials passed at the Tenth Session of the Legislative Assembly of the Territory of Idaho, convened on the 13th day of January, A. D. 1879.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the Seal of the Territory.

Done at Boise City this 4th day of April, A. D. 1879.

R. A. SIDEBOTHAM,
Secretary of Idaho.

LAWS

OF THE

TERRITORY OF IDAHO.

TENTH SESSION.

AN ACT

To Provide for Obtaining Service of Civil Process, upon Foreign Corporations, and Non-Resident Joint Stock Companies, and Associations.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The Auditor and Recorder of each county in this Territory, or in case of his absence, the acting deputy at the time of service, is hereby constituted, and shall hereafter be deemed to be, the lawful and authorized agent, of any and all foreign corporations, and non-resident joint stock companies, and non-resident associations engaged in business, or owning property in such county, in this Territory, for all the purposes of obtaining service of process, upon such corporations, joint stock companies, or associations, in all suits, actions, special proceedings, or other legal proceedings, at law, or in equity, commenced or prosecuted in the courts of said Territory, held in, or for such county.

SEC. 2. When no cashier or secretary of such foreign corporations, non-resident joint stock companies, or non-resident associations, and no superintendent or managing agent, appointed by such corporations, joint stock companies or associations, can be found within the county, service of summons, upon such corporations, joint stock companies, or associations in all the cases mentioned in Section one of this Act, may be

made upon the Auditor and Recorder of such county, or in the event of his absence, upon his acting deputy, at the time of service.

SEC. 3. In all cases, where service of summons is made, upon the Auditor and Recorder, as provided in Sec. two of this Act, the plaintiff in such action or his attorney, shall cause to be attached to, or endorsed upon the copy of summons, served as aforesaid, the name of the town, or city, state or territory, wherein the principal office of such corporation, joint stock company or association (defendant,) is located, and after service of such summons upon such Auditor and Recorder or his deputy, it shall be the duty of such Auditor and Recorder to record such summons in a book of records, to be kept for that purpose, and named "Record of Summons," and to forward such copy of summons, and the copy of the complaint, served upon him in such action, by mail, post paid, directed to the office of such corporation, joint stock company or association, in the city or town, and state or territory, where the office of the said corporation, joint stock company or association is situated, in accordance with the directions endorsed upon or attached to the said copy of summons, within twenty-four hours after such service is made, and to make a record of the time of service upon him, and the time and manner of mailing such copy of summons and complaint, and such Auditor and Recorder shall be entitled to a fee of three dollars for such service, to be paid by the plaintiff and collected as costs.

SEC. 4. When service is obtained as provided for in Section three of this Act, the defendant must answer or demur thereto, within thirty days thereafter.

SEC. 5. It is the privilege and it shall be lawful, for any such foreign corporation, non-resident joint stock company, and non-resident association, to designate in writing, signed by the President, and countersigned by the Secretary (and if by a corporation, under its seal), any person, who is a resident of the county where suit is brought, upon whom service may be made, in all legal proceeding; and the same may be filed with and recorded by the County Recorder, in said book of "Record of Summons," and from the time of such recording, and so long as the person designated therein, shall publicly reside within such county, and service can be had upon him, in such county. It shall be the duty of the plaintiff, or the Sheriff in all legal proceedings, to serve summons and other process upon the person so designated, in such record, and the former Sections of this Act, so far as they constitute the County Auditor and Recorder agent, shall not apply to such corporations, joint stock

companies and associations, as have complied with, and shall continue to comply with the provisions of this Section. But if any foreign corporations, non-resident joint stock company, or non-resident association, refuse or fail to comply with this Section, and to make, and record such designation, such corporation, joint stock company, or association, shall be deemed in law, and equity, to have elected to appoint, and to have chosen and constituted, the Auditor and Recorder its agent, for the purposes provided for in Section one of this Act.

SEC. 6. All acts, and parts of acts, in conflict with the provisions of this Act, are hereby repealed.

SEC. 7. This Act shall take effect from the time of its passage.

APPROVED February 21, 1879.

AN ACT

In Relation to Money of Account and Interest.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The money of account of this Territory shall be the dollar, cent, and mill; and all accounts in the public offices, and other public accounts, and all proceedings in courts, shall be kept and had in conformity to this regulation.

SEC. 2. Nothing contained in the preceding Section shall vitiate or effect any account, charge or entry, originally made or any note, bond, or other instrument expressed in any other money of account, but the same shall be reduced to dollars and parts of dollars, as heretofore directed, in any suit thereupon.

SEC. 3. In all judgments and decrees rendered by any court of justice for any debt, damages, or costs, and in all executions issued thereon, the amount shall be computed, as near as may be, in dollars and cents, rejecting small fractions; and no judgment in other proceedings shall be considered erroneous for such omission.

SEC. 4. When there is no express contract in writing fixing a different rate of interest, interest shall be allowed at at the rate of ten per cent. per annum for all moneys after they become due, on any bond, bill or promissory note, or any other instrument of writing, or any judgment recorded before any

court in this Territory for money lent for money due on settlement of account, from the day on which the balance is ascertained.

SEC. 5. Parties may agree in writing for the payment of any rate of interest on money due or to become due on any contract not to exceed the sum of one and one-half per cent. per month; any judgment rendered on such contract shall bear interest at the rate of ten per cent. per annum until satisfied.

SEC. 6. No person or corporation in computing interest on any bond, bill, promissory note, or any other instrument in writing, shall add the interest or any portion thereof due to the principal, and compute interest thereon as part of the principal, thereby charging compound interest.

SEC. 7. Every person who, for any such loan or forbearance, shall pay or deliver any greater sum or value than is above allowed to be received, may recover in an action against the person who shall have taken or received the same, or his personal representative; treble the amount of money so paid or value delivered above the rate aforesaid if such action be brought within one year after such payment or delivery.

SEC. 8. Any person who shall directly or indirectly receive any greater interest, discount or consideration than this prescribed in this Act, and in violation of the provisions of this Act, shall be deemed guilty of a misdemeanor, and on conviction thereof the person so offending shall be punished by fine not exceeding one hundred dollars or imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 9. All Acts and parts of Acts in conflict with this Act, is hereby repealed. This Act to be in force from and after the approval by the Governor.

APPROVED Feb. 21, 1879.

AN ACT

To Regulate the manner of Adopting Minor Children.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Any minor child may be adopted by any adult person, in the cases and subject to the rules prescribed in this Act.

SEC. 2. The person adopting a child must be at least fifteen years older than the person adopted.

SEC. 3. A married man not lawfully separated from his wife cannot adopt a child without the consent of his wife.

SEC. 4. A legitimate child cannot be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living; except, however, that consent is not necessary from a father or mother deprived of civil rights, or adjudged guilty of adultery, or of cruelty, and for either cause divorced, or adjudged to be an habitual drunkard, or who has been judicially deprived of the custody of the child on account of cruelty or neglect.

SEC. 5. The consent of the child, if over the age of twelve years, is necessary to its adoption.

SEC. 6. The person adopting a child, and the child adopted, and the other persons whose consent is necessary, must appear before the probate judge of the county where the person adopting resides, and the necessary consent must thereupon be signed and an agreement be executed by the person adopting to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

SEC. 7. The judge must examine all persons appearing before him, pursuant to the last Section, each separately, and if satisfied that the interests of the child will be promoted by the adoption, he must make an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting.

SEC. 8. A child when adopted shall take the name of the person adopting, and the two shall thenceforth sustain towards each other the legal relation of parent and child, and have all the rights, and are subject to all the duties, of that relation.

SEC. 9. The parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and of all responsibility for, the child so adopted, and have no right over it.

SEC. 10. The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife—if he is married—into his family, and otherwise treating it as if it was a legitimate child, thereby adopts it as such, and such child shall thereupon be deemed for all purposes legitimate from the time of its birth. *Provided*, However, that the foregoing provisions of this Act do not apply to such an adoption,

SEC. 11. This Act to take effect, and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

To Regulate the Application of Moneys in Idaho County, and for Other Purposes.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The County Commissioners of Idaho county shall have power to transfer quarterly all money in the 45 per cent. fund, exceeding the sum of two hundred dollars, to the General Fund of said county.

SEC. 2. The County Commissioners of said county, at their regular meeting next preceding any general or special election, shall furnish the County Auditor with sufficient postage stamps, to be paid for out of the 45 per cent. fund, so that said Auditor (or as Clerk of the Board of County Commissioners), shall dispatch to their proper destination, and at the time prescribed by law, all election notices, poll books, tally sheets, &c., and the said Auditor shall furnish the Judges of Election, at each and every precinct, with sufficient postage stamps to return to their destination all election returns required by law, and all said documents shall be transmitted through the United States mail, by registered letter. *Provided*, That if there be no postoffice at any voting precinct such documents may be transmitted through any regular or reliable express, and, *Provided further*, If there be no postoffice or express at any voting precinct, said papers may be transmitted in such manner as the County Commissioners may direct. *Provided*, The provisions of this section shall apply and be in force in Idaho county only.

SEC. 3. Section 2 of an act, entitled "An Act to levy a special tax in Idaho county, and for other purposes," approved January 10th, 1877, is hereby amended, and the words "four thousand dollars" substituted for the words "three thousand dollars," wherever they occur in said section.

SEC. 4. An act entitled "An Act concerning roads and highways in Idaho county," approved January 12th, 1877,

is hereby repealed; said repeal to take effect and be in force from and after July 1st, 1880.

SEC. 5. This Act shall be in force from and after its passage.

APPROVED, February 21, 1879.

AN ACT

To Legalize and Provide for the Collection of Delinquent Taxes in the Several Counties of this Territory, and for Other Purposes.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The assessment of taxes upon all property, real and personal, in the several counties of this Territory, whether for Territorial, county, or other purposes, made by the County Assessors thereof, for the fiscal year commencing on the first Monday of April, A. D. 1875, and for the fiscal year A. D. 1876, and for the fiscal year commencing on the first Monday of April, A. D. 1877, and for the fiscal year commencing on the first Monday of April, A. D. 1878, are hereby legalized and confirmed, and rendered binding and valid, both in law and equity, against the persons and property assessed, and no want of description or indescription, or informality, or irregularity in the description of the property, assessed upon the assessment roll, if it can be ascertained or proved by any proper and competent evidence what property is intended, shall invalidate the assessment, but the same shall be sufficient, and be considered valid both in law and equity.

SEC. 2. Omissions, errors or defect in form in any original or duplicate assessment roll, when it can be ascertained therefrom what was intended, may be supplied or corrected by the Assessor at any time within one year after the original assessment was made.

SEC. 3. No assessment or act relating to assessment or collection of taxes, shall be illegal on account of informality, nor because the same was not completed within the time required by law.

SEC. 4. All acts and parts of acts, in conflict with the provisions of this Act, are hereby repealed.

SEC. 5. This Act shall take effect and be in force from and after its passage.

APPROVED Febry. 21, 1879.

AN ACT

To Amend An Act, entitled "An Act Defining the Jurisdiction and Practice of the Probate Courts of the Territory, in Civil and Criminal Cases," approved January 15th, 1879.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Sec. 6 of said act be, and the same is hereby amended so as to read as follows: Sec. 6. The rules of practice in civil cases in the Probate Courts of this Territory shall be the same as the practice in the District Courts, where the debt or damages claimed exceeds the sum of one hundred dollars, exclusive of interest; and in all cases wherein the debt or damages claimed does not exceed the sum of one hundred dollars, exclusive of interest, the rules of practice and proceedings in Justices' Courts shall apply.

SEC. 2. That sections, numbered 16, 17, 18, 19, 20 and 21 of said act be, and the same are hereby repealed, and in lieu thereof the following section, numbered 16, be, and the same is hereby substituted: Sec. 16. Appeals to the District Court from any order, judgment or decree of said Probate Courts, shall be allowed in all cases; and the manner of taking and perfecting appeals shall be the same as provided by law for appeals to the District Court, from judgments rendered in Justices' Courts.

SEC. 3. That Sec. 22 of said Act be numbered Sec. 17; that Section 23 thereof be numbered Sec. 18; that Section 24 thereof be numbered Sec. 19; and that Section 25 thereof be numbered 20.

SEC. 4. This Act to take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

Supplemental to an Act entitled "An Act Creating the Board of County Commissioners and Defining their Duties and Powers."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. When a petition, signed by at least five of

the tax-payers residing in any unincorporated town, village, or mining camp, is presented to the Board of Commissioners of their county asking that a committee be appointed for the purpose of inspecting and supervising chimneys, stove-pipes, and fire-places, within their respective districts, it shall be the duty of the Board of Commissioners at their first regular meeting to act upon such petition by appointing not less than three nor more than five citizen tax-payers of such town, village, or mining camp, who shall constitute a "Fire Guard" board within such limits as may be designated by the Commissioners.

SEC. 2. The said board shall be invested with the power to examine fire-places, stove-pipes, chimneys, and fire-escapes, in all public and private buildings that are being occupied, or in which fires may be used, within the limits designated by the Commissioners, and shall, when in their opinion there exists danger from fire by reason of defective or insecure chimneys, fire-places, stoves, or stove-pipes, in any dwelling-house or other building, give a notice in writing to the owner or occupant thereof, requiring him or them to repair, alter or remove such defective or insecure chimneys, fire-places, stoves, or stove-pipes, within a reasonable time; and upon his or their refusal or failure to comply with such written order, the board may have the same done at the expense of such owner or occupant.

SEC. 3. To enforce the payment of alterations and repairs, as provided in the preceding Section of this Act, the said board may seize so much of any and every species of personal property whatever, claimed by any person liable to and refusing or neglecting to pay for such alterations and repairs, as will be sufficient to pay for the same and costs of seizure, which costs shall not exceed three dollars; and shall and may sell the same at any time or place, upon giving a verbal notice of one hour previous to such sale.

SEC. 4. The term of office of each and every member of a "Fire Guard" board appointed under this Act, shall cease with that of the County Commissioners by whom he was appointed, and vacancies on the board may be filled by the County Commissioners, as provided for in the case of county and precinct officers.

SEC. 5. This Act shall take effect and be in force from and after its passage.

APPROVED February 20, 1879.

AN ACT

To establish a Public School System, and to Provide for the Maintenance and Supervision of Public Schools.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

TERRITORIAL GENERAL FUND.

SECTION 1. That all moneys accruing from the sale of all lands, heretofore given, or which may hereafter be given, by the Congress of the United States for school purposes in said Territory, and all moneys that may hereafter be given and appropriated by the Congress of the United States for school purposes, unless by special provision, shall be appropriated for the establishment of a University, or other high school, together with any moneys by legacy or otherwise donated for educational purposes, and appropriated to the general school fund, and all moneys accruing to the Territory from unclaimed moneys of the estates of deceased persons, shall be set apart, and shall constitute an irreducible and indivisible Territorial General School Fund; the interest only accruing from which, shall be appropriated to the respective counties of the Territory in the manner hereinafter specified and directed.

SEC. 2. For the purpose of establishing and maintaining public schools in the several counties of the Territory, it shall be the duty of the county commissioners of each county, at the time of levying the taxes for county and territorial purposes, to levy a tax of not less than two mills, nor more than eight mills, on each and every dollar of taxable property in their respective counties, for school purposes.

SEC. 3. That said taxes shall be assessed and collected in each county as other taxes on property for county and territorial purposes.

SEC. 4. That the tax collectors and treasurers of the respective counties shall not receive any fees or percentage for such collecting, holding and disbursing the moneys so received from said taxes, and set apart for public school purposes, but that they shall perform such duties without fee or reward.

SEC. 5. That said moneys so collected are hereby set apart and appropriated for the support of the public schools of the respective counties, and shall be paid over by said collectors, or other officers receiving such moneys, to the county treasurers

of the respective counties, and by said treasurers shall be placed in a separate account, to be called the county school fund, and shall only be drawn from each county treasury as in the manner hereinafter prescribed and provided.

SEC. 6. That for the further support of public schools there shall be set apart by the county treasurer of each county, the same to be placed by the respective county treasurers in the county school fund as a part of the same, all moneys arising from fines and forfeitures for a breach of any of the penal laws of this Territory.

TERRITORIAL SUPERINTENDENT.

SEC. 7. The Territorial Controller is hereby made and constituted ex-officio Territorial Superintendent of Public Instruction.

SEC. 8. It shall be the duty of the Territorial Superintendent of Public Instruction:

First—To exercise a general supervision over the public schools of the Territory:

Second—To prepare and have blanks printed for the reports of county superintendents, trustees, census marshals and teachers, and also blanks for teachers' registers, and blank orders from trustees to county superintendents for warrants, and distribute the same to the respective county superintendents; and also have copies of the school law prepared in pamphlet form for the use of the school officers in the respective counties, and distribute the same amongst said officers.

SEC. 9. All necessary expenditures of money incurred by the superintendent for the printing of said blanks, shall be paid out of any funds in the territorial treasury not otherwise appropriated. *Provided*, It does not exceed the sum of two hundred dollars per annum.

SEC. 10. It shall be the duty of the territorial treasurer to apportion to the several counties the amount of money in the school fund of the Territory, subject to be apportioned, to which each shall be entitled, under the provisions of this Act, in proportion to the number of children residing therein between the ages of five and twenty-one years, as shown by the last previous report of the county school superintendent, or other officer charged therewith, and make a record of such apportionment in a book of record to be kept for that purpose, and to furnish to the territorial treasurer, to each county treasurer, and to each county school superintendent an abstract of such apportionment, and at the same time to furnish to each

county treasurer a warrant for the amount of such apportionment, to which his county may be entitled, drawn on the territorial treasurer in conformity with the provisions of this Act.

SEC. 11. And the said territorial treasurer shall, without unnecessary delay, transmit to each county treasurer the amount due his county as exhibited by the said warrants; and each county treasurer shall furnish to the territorial superintendent a receipt for the same, with duplicate, to the territorial treasurer, which receipts the said superintendent and treasurer shall file in their respective offices.

SEC. 12. The territorial superintendent shall present to the Legislative Assembly during the first week of each regular session, a full report of the condition of the public schools in the Territory, to-wit: the number of schools in each county, the number of children between the ages of five and twenty-one years in each county, the number of such attending schools established under the provisions of this Act, the amount of school money apportioned to each district, the amount of school moneys received by each county from county and district taxes, and contributions, the amount expended in each county in accordance with the provisions of this Act, and the balance remaining of the school fund in each county treasury at the close of each school year; and also the receipts and expenditures of the territorial school fund, together with the balance in said fund at the end of each school year.

SEC. 13. He shall also present such suggestions as he may deem necessary in relation to the construction of school houses, the improvement and management of the public schools, to the qualification of teachers, the ways and the means for raising funds for the support of public schools, and for the promotion of the general interest of education throughout the Territory.

SEC. 14. And he shall, at the close of his official term deliver to his successor, all property, books, maps, reports, records, and all documents and papers received by him, for the use of or belonging to his office, for which he shall take a receipt of his successor, and file the same in the office of the territorial secretary.

TERRITORIAL TREASURER, DUTIES OF.

SEC. 15. It is hereby made the duty of the territorial treasurer to receive and hold as special deposit, and place in a separate fund, to be called the territorial general school fund, all moneys designated and set apart for that purpose, as speci-

fied in section one of this Act; for the safe keeping and disbursement of which moneys, he shall be responsible on his official bond.

SEC. 16. The auditor of each county is hereby made ex-officio county school superintendent who, in addition to his oath of office as auditor, shall qualify to perform faithfully the duties of school superintendent for his county. *Provided*, That the Probate Judge of the counties of Alturas and Bear Lake shall be ex-officio superintendents of public schools, of said named counties.

SEC. 17. It shall be, and is hereby made the duty of the county superintendent of public schools, upon receiving notice from the county treasurer, as provided in this Act, to apportion the public school moneys, both county and territorial, reported by said county treasurer to be in the county treasury of each county, among the several school districts of his county in the following manner, to-wit: one-half of the whole amount reported by said county treasurer, he shall divide equally among the several organized districts that have complied with the provisions of this Act, the remaining one-half of said whole amount he shall apportion per capita among the several districts in proportion to the number of children in each district, as shown by the last report of the school census marshal of each district, and credit each district with the amount to which such apportionment entitles it; such apportionment he shall place upon record in his office, and forthwith furnish a copy thereof to the county treasurer, and he shall report the portion of each district to the clerk of the board of trustees thereof. *Provided*, That in the counties of Boise and Owyhee, one-third of the whole amount of public school moneys reported by the county treasurers, shall be divided equally among the several organized districts, and the remaining two-thirds per capita, as provided in this section.

SEC. 18. The county superintendent shall make such apportionment on the first Monday in March of each year, and quarterly thereafter. *Provided*, That when any new school district, is organized from any part of any other organized district, or districts, the county superintendent, after having ascertained the amount of moneys belonging to said old district, or districts, and also the indebtedness and liabilities of said old district, or districts, and deducting the same, shall apportion to said new district its due per capita proportion, of moneys or indebtedness, as the case may be, from said districts from which it may be formed. *Provided further*, That when any new district shall have been organized, as described in this section,

and fail to have a school term, of not less than three months, and report the same according to law, during the first year of its organization, and shall have had moneys apportioned to it from other districts, as set forth in this section, shall be returned to the district or districts from which it was taken.

SEC. 19. He shall have power, and it shall be his duty, to draw his warrant on the treasurer of his county in favor of, and deliver the same to, the person entitled to receive the same, on presentation by him of an order from the clerk of the board of trustees, or of any two of the board of trustees: *Provided*, That no such warrant shall be drawn in favor of any school district until full and complete returns shall have been made to him by the same as required by law, and the certificate of the district board of trustees showing for what purpose in accordance with the provisions of this Act the money is required: *And provided, further*, That no school district shall receive a warrant for a larger amount than there is cash in the treasury to the credit of said district, and that no district shall receive any of the public school moneys in which there shall not have been reported at least ten children by the school census marshal at the last report: *Provided*, That each county shall constitute at least one school district, irrespective of the number of children of school age in said county.

SEC. 20. It is hereby made the duty of the county school superintendent:

First—To distribute promptly such blanks, reports, forms and laws, as shall be received by him from the territorial superintendent of public instruction, for the use of school trustees, census marshals, and teachers, and any other officers entitled to receive the same.

Second—To keep on file in his office the reports of the school trustees, census marshals, and teachers, and to record all his official acts in a book to be provided for that purpose.

Third—To make a full report annually on or before the fifteenth day of October in each year, for the school year ending on the 31st day of August, next previous thereto to the territorial superintendent, a statement of the number of school houses in each district in his county, the number of children of school age, and the number of pupils attending in each district in his county, the number of libraries and the number and character of volumes in each library, in how many districts a school has been taught during the past year, and for how long a time, and what school books have been used in each district, what proportion of children of school age in each district has attended the school during the past year, the amount of money

paid for teachers for teaching, and the expense as nearly as may be, of conducting each district school. This statement, together with such other information and suggestions as he may deem proper or important to the cause of education in the county, shall be forwarded to the territorial superintendent of public instruction, on or before the first day of November of each year, in order that the same may be embodied in his report to the Legislative Assembly.

Fourth—To appoint school trustees for newly organized districts, and to fill by appointment all vacancies that may occur by death, resignation, or otherwise, or when the voters of the districts fail to elect trustees in accordance with the provisions of this Act, and to draw his warrant on the county treasurer in favor of the board of trustees for the purchase of school books, which may be furnished by said trustees to indigent children of the district, making the same payable out of the public school moneys in the county school treasury apportioned to said district.

Fifth—To collect by process of law all penal fines not paid over by justices of the peace, or other officers required to pay the same as required in section thirty-three of this Act, and the same shall be recovered by an action in which the people of the United States in the Territory of Idaho, by the county school superintendent of public instruction, shall be plaintiff, and the justice of the peace or other officer neglecting or refusing to pay over the said moneys shall be deemed defendant.

SEC. 21. Whenever at least four heads of families petition the county superintendent for the organization of a new school district, or for the subdivision of, or change in the boundaries of an old one, the superintendent shall, without unnecessary delay, act upon said petition, and may approve, modify or disapprove of the said petition; if he approve, he shall proceed to organize the new district, and he shall appoint three trustees for the same as provided in this Act. His disapproval shall only be upon the grounds that such organization or change of boundary would be unjust to individuals, or the community.

SEC. 22. All school election returns shall be made to the respective county school superintendents, which returns they shall file in their offices.

SEC. 23. The county superintendent shall, at the close of his official term, deliver to his successor all records, documents, books and papers belonging to his office, and take a receipt for the same, which shall be filed in the office of the county treasurer.

SEC. 24. It shall be the duty of the treasurer of each

county to receive and hold as special deposit, all moneys belonging to the public schools of his county, in accordance with the provisions of this Act, and pay them over only on the warrant of the county superintendent.

SEC. 25. And he shall, on the first Monday in February of each year, and quarterly thereafter, make to the county superintendent a statement of the amount of money in the school fund then in the treasury subject to be apportioned, after having deducted the amount due the county superintendent for his salary. Such statement shall also show the amount received and derived from each source constituting said county school fund.

SEC. 26. There shall be an election held annually on the first Monday in September, of each year, at each district school-house in the Territory, at which election there shall be elected, by the qualified voters of the several districts, three trustees for each district, who shall hold their offices for the term of one year, and until their successors shall be elected and qualified: *Provided, however*, That the present boards of trustees in the several districts shall hold their offices until the first Monday in September, A. D. 1879.

SEC. 27. At said election the polls shall be opened by one of the board of trustees, or by any voter, if no trustee be present, at one o'clock, and closed at five o'clock, p. m., of the same day. Said election shall be conducted generally as other county elections, except that one judge and one clerk shall constitute a board of election, and that any one of the trustees may, and it is hereby made their duty, to qualify said judge and clerk to perform the duties of said board of election, to make returns of such election to the county superintendent immediately, which returns shall be filed in the office of the same.

SEC. 28. It shall be the duty of the trustees of each district:

First—To employ teachers and fix their salaries, and they shall have power to discharge any teacher for any neglect of duty, or any cause that in their opinion renders his or her services unprofitable as a teacher.

Second—To visit the schools in their districts from time to time, and not less than once a month each.

Third—Any two of said trustees shall constitute a quorum for the transaction of business.

Fourth—At their first meeting after their election and qualification, one of their number shall be chosen clerk of their board, and their proceedings of all meetings shall be in writing

and shall be kept in a book, shall be signed by the clerk thereof, and such book shall be a public record.

Fifth—They shall have charge of all school property in their districts, and shall as such trustees, have power to receive in trust all real estate or other property conveyed to said school district, and to convey by deed duly executed and delivered, all the estate or interest of their districts in any school house or site directed to be sold by any vote of their district, and all conveyances made to said board, shall be made in their corporate name, To trustees of school district No.——, County——; Idaho Territory, and to their successors in office.

Sixth—Said trustees shall have further power, when directed by a vote of their district, to purchase, receive, hold and convey real and personal property for school purposes, and to hold, purchase, hire and repair school houses, and supply the same with necessary furniture, and in accordance with the provisions of this Act, and to fix the location of school houses. *Provided*, That no trustee shall be pecuniarily interested in any contract made by the board of trustees, of which he is a member; and any contract made in violation of this section shall be null and void.

Seventh—And they shall, by giving ten days' notice, in writing, posted in three conspicuous places in their district, call at any time for a meeting of the legal voters of their district, for the purpose of deciding by the votes of such voters whether or not a special tax, specifying the rate proposed to be collected, shall be levied on said district for the building or repairing of school houses, or for the support of public schools in the respective districts. *Provided*, That none but actual resident tax payers, of said district, shall be entitled to vote at such election,. *And Provided further*, That all widows or unmarried women of the age of twenty-one years, who shall reside in and hold or own property, subject to such special tax, shall be entitled to vote, at all such special elections, and the clerk of the board of trustees shall have the same power to enforce the collection of said tax as is given to assessors on personal property, and district attorneys on real estate in the collection of territorial and county taxes, or to bring suit in the name of his district, in any court of competent jurisdiction in his district or county, as other civil suits are brought for the recovery of money. And the said collector shall be entitled to and receive ten per cent. thereon for collecting the same. And the board of trustees of any school district in which there shall have been a special tax levied according to law shall, by giving ten days' notice, in writing, posted in three conspicuous

places in their district, naming the object, day, and the hour and place in said notice, meet and sit as a board of equalization of the assessment of their district, and the laws that govern the equalization of the county assessment shall apply to said board, and the trustees shall have power, by giving thirty days' notice, in writing, posted in three conspicuous places in their school district, or by publication in a newspaper in their district, to declare all unpaid special school taxes delinquent, and shall add five per cent. thereto, to be paid by such delinquent tax payers.

Eighth—The voting at such elections shall be by ballot, on which ballot shall be written, or printed, "Tax Yes," or "Tax No," and if a majority of the votes polled at such elections shall be in favor of such tax, the board of trustees shall be empowered, and it is hereby made their duty, to levy, and cause to be collected, a special tax, at the rate specified in their notice upon the taxable property in their district, as shown by the last annual assessment by the county assessor to be obtained by the trustees, from the county clerk of their county, and the said board of trustees shall have power to appoint judges and clerk of said election and a collector of said tax; and before entering upon the discharge of his duties, shall take the oaths of office, and give bond in double the estimate amount of money to come into his hands, with good and sufficient sureties, and when he shall have been so qualified, he shall have the same power to enforce the collections of said tax as is given to tax collectors and sheriffs, in the collection of territorial and county taxes, and said collector shall be entitled to, and receive five per cent. thereon, for collecting the same. *Provided*, That when any repairs not exceeding the sum of twenty-five dollars in value, the trustees may in their discretion, levy and collect a rate bill, to be paid by all the parents or guardians of all pupils attending said schools, in proportion to the number of pupils sent to said schools by each parent or guardian; but no pupil shall be prohibited from attending said schools on account of his or her parents' or guardian's inability to pay such rate; and the clerk of the board of trustees shall have the same power to enforce the collection of the amounts of said rate bill as is given to tax collectors and sheriffs in the collection of territorial and county taxes.

Ninth—The trustees of the respective districts, shall furnish all things, not otherwise herein provided for, necessary for the use and comfort of the school, or schools in their district, such as repairs, wood, stoves, brooms, buckets, black-boards and privies, and for this purpose they may audit, and allow, accounts against the school fund of their school districts, not to exceed ten per cent. of the amount of said school fund.

Tenth—The trustees of each district shall make full statement in writing, annually, on the first day of September, to the county school superintendent of their respective counties, of all matters pertaining to their schools, such as the building and repairing school houses, the cost of the same, and from what source paid, the number of months schools have been taught in their districts during the preceding school year, what the monthly salary paid teachers, and generally such information as will promote the interest and advance the cause of education.

SEC. 29. It is hereby made the duty of the trustees of the respective districts, on receiving the report from any teacher, of the disorderly or bad conduct of large pupils, to decide how such insubordinate pupils shall be punished, or whether they shall be dismissed from school.

SEC. 30. That said trustees shall on the first Monday of July of each year, which shall be, and is hereby declared to be a day for the regular meeting of said board, appoint a census marshal who shall immediately qualify by taking an oath or affirmation faithfully to discharge the duties of his office to the best of his ability, and the clerk of the board, or either of the trustees, is hereby authorized to administer such oath or affirmation. Said census marshal shall proceed, immediately after his appointment and qualification, to take a correct enumeration of all the children in his district between the ages of five and twenty-one years. After the census marshal shall have finished his enumeration, he shall forthwith report the same to the trustees of his district, who shall hold a meeting to receive the same, and said trustees shall cause a true and certified copy of said census, together with a certificate of the marshal's having performed his duties, which census or enumeration and certificate, shall be forthwith transmitted to the county school superintendent of his county.

SEC. 31. For such services well and faithfully performed, said census marshal shall be allowed as full compensation, ten cents for each child so enumerated, and the clerk of the board of trustees shall furnish said census marshal a certificate of the performance of his duty; and upon presenting of such certificate, the county superintendent shall draw his warrant upon the county treasurer for the amount so allowed in favor of said census marshal, and shall charge the same against his district.

SEC. 32. Trustees shall qualify within fifteen days after their election, by taking an oath or affirmation, faithfully to discharge the duties of their office to the best of their ability, and to promote the interest of education in their district, which

oath shall be administered by the county superintendent, or any civil officer authorized to administer oaths, and filed in the office of the county superintendent.

JUSTICES OF THE PEACE, DUTIES OF, &C.

SEC. 33. All moneys arising from fines or forfeitures, as provided for in this Act, are hereby required to be paid over, by justices of the peace, or other officer receiving the same, to the county treasurer within thirty days after collection.

SEC. 34. Any justice of the peace, or other officer neglecting or failing to comply with the provisions of section thirty-three of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, or by imprisonment in the county jail not less than three months, or both such fine and imprisonment.

TEACHERS, DUTIES OF, &C.

SEC. 35. Teachers of the public schools shall be furnished with a school register by the trustees of the respective districts, for the purpose of registering the names of his or her pupils, and their daily attendance at school, and at the close of the session, said register shall be delivered to the clerk of the board of trustees of the district, and the teachers shall also be furnished by the trustees with a blank report, which he shall fill up according to the heading of the same, and transmit to the county superintendent of his county, at the close of the session or term, and no teacher shall be authorized to draw his salary until such report shall have been received by said county superintendent.

MISCELLANEOUS.

SEC. 36. No books, papers, tracts or documents, of a political, sectarian, or denominational character shall be used or introduced in any school established under the provisions of this Act, and any and every political, sectarian, or denominational doctrine is hereby expressly forbidden to be taught therein, nor shall any teacher, nor any district receive any of the public school moneys, in which the schools have not been taught in accordance with the provisions of this Act.

SEC. 37. Trustees shall determine whether pupils outside of their district shall be permitted to attend school in such district and upon what terms.

SEC. 38. The school year of each and every county within this Territory, shall commence on the first Monday in September of each year.

SEC. 39. The compensation of the county school superintendents of the several counties shall be paid annually on the first Monday of October, out of the county school fund; and before receiving said compensation, said county superintendent shall have received a certificate from the territorial school superintendent, that his duties have been faithfully performed during the last school year, upon which the board of county commissioners of the respective counties shall draw a warrant upon the county school fund for such amount as they may audit and allow, not to exceed five dollars for each school district in his county, legally organized, and complying with the provisions of this Act.

EXAMINATION OF TEACHERS.

SEC. 40. The several boards of county commissioners, are hereby authorized and empowered, to appoint for their respective counties, one county school examiner, who, together with the county superintendent of public schools, shall constitute a county board of school examiners.

SEC. 41. The said county school examiner, before entering upon the duties of his office, shall take the oath of office, which shall be filed with the county recorder, of his county. The said school examiner shall hold his office, at the pleasure of the board of county commissioners of his county, and shall receive a compensation of five dollars per day, for the time actually engaged in his duties as county school examiner, to be allowed and paid in the same manner that other accounts are allowed and paid against the county. The county school superintendent shall receive no additional compensation for his duties as county school examiner.

SEC. 42. It shall be the duty of said board of county school examiners, to meet at the county seats of their respective counties, on the first Monday in the months of February, August and November of each year, at such place as they shall designate. Notice of the place of meeting, shall be posted at the office of the county recorder, and the board shall then and there proceed to examine all applicants for certificates to teach public schools within the several counties, in such manner and under such rules as the board shall prescribe. Upon such examination, those applicants, who, in the judgment of the examiners shall be considered competent as teachers, shall

be entitled to certificates from said board of examiners, which certificate shall state the branches which the holder is competent to teach, and shall be good for two years from their date: *But* no certificate shall be granted to any person who is not found competent to teach orthography, reading, writing, arithmetic, geography and English grammar.

SEC. 43. All applicants for certificates shall appear before said board of school examiners, on the first day of the several sessions of said board, and said board shall continue in session so long as may be necessary to thoroughly examine all applicants—not exceeding four days at any one session. The said school examiners shall be entitled to compensation, for one day's service at least, at each session, whether there are any applicants or not: *Provided*, They are present, and ready to examine any who may apply.

SEC. 44. No person shall be authorized to teach any public school within Idaho Territory, who shall not have a certificate from a school board of examiners within this Territory, as constituted by this Act, good and valid for the period during which such person shall teach such public school, and any public school money is hereby forbidden to be paid to any teacher who shall not be the holder of a valid certificate, for the time during which such teacher claims to have taught a public school.

SEC. 45. Every person, who, upon examination of said board, shall be deemed competent to teach, shall before receiving a certificate, pay to the county treasurer the sum of three dollars, and upon the presentation of the receipt of the county treasurer to the county auditor, and a duplicate thereof to the county school superintendent, he or she shall be entitled to receive such certificate. The board of examiners shall furnish to the county treasurer a list of all persons who have been found competent at any session of said board. All money paid into the county treasury, under the provisions of this Act, shall belong to the school fund of the county.

SEC. 46. All acts, and parts of acts, in conflict with the provisions of this Act, are hereby repealed.

SEC. 47. This Act shall take effect, and be in force from and after its passage and approval by the governor.

APPROVED February 21, 1879.

AN ACT

To amend an act, entitled "An Act to provide a uniform system of Territorial and county revenue and the assessing and collecting the same," approved January 15th, 1875, so far as the same relates to and in force within the limits of Boise City, in Ada county, Idaho Territory.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. That section 72 of an act, entitled "An act to provide a uniform system of Territorial and county revenue and the assessing and collecting the same," approved January 15th, 1875, shall not apply to and be in force within the corporated limits of Boise City, in Ada county, Idaho Territory, except as hereinafter provided; that section 72 of said act, which shall be in force within the limits of said Boise City, shall read as follows: There shall be levied, and collected by the sheriff as tax collector, a license tax from each proprietor or keeper of a billiard table, not kept for the exclusive use of the owner or his family, for each table, fifteen dollars per quarter; for a nine or ten pin or bowling alley, fifteen dollars per quarter; such license to be granted for a term not less than three months.

SEC. 2. That section 75 of said revenue act, approved January 15th, 1875, be amended to read as follows: Section 75. All persons who may dispose of any spirituous, malt or fermented liquors, or wine, in less quantities than one quart, shall before the transaction of any such business, obtain a license from the tax collector, for which they shall pay the sum of fifty dollars per quarter: *Provided, however*, That all persons engaged in retailing liquors in connection with entertainments for travelers, at any point distant one mile or more outside the limits of any city or town within this Territory, shall pay a quarterly license of fifteen dollars: *And it is further provided*, That within the incorporated limits of Boise City, in Ada county, that all persons engaged in the retailing of liquors, shall pay only the sum of twenty-five dollars per quarter, and for all such licenses there shall be paid to the sheriff the sum of one dollar as his fees and the fees of the county auditor; one-half of said fees when paid by the sheriff to the county auditor as made and provided in this Act.

SEC. 3. This Act to be in force and apply only to the

incorporated limits of Boise City, and that the said revenue law, approved January 15th, 1875, is not by this Act affected or amended, as far as the same relates to and is in force in other portions of the Territory.

SEC. 4. This Act to be in force from and after the 31st day of March, A. D. 1879.

APPROVED, February 21, 1879.

AN ACT

To amend an Act, entitled "An Act to provide for refunding Territorial bonds."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section six of an Act, entitled "An Act for refunding Territorial bonds," approved January 9th, 1877, be, and the same is hereby amended to read as follows: The treasurer shall on the passage hereof give notice of the provisions of this Act, by circular or otherwise, to the holders of now outstanding bonds. He shall keep a book of registration and therein enter the number and amount of each bond issued and to whom, and also the number and amount of bond received and the interest then paid thereon, if any be due. All bonds and coupons so redeemed shall be immediately cancelled. He shall deliver all bonds and coupons so redeemed under the provisions of this Act to the territorial controller, and the controller shall register the bonds and coupons so redeemed in a book of registration, to be kept by him, in like manner as required by the treasurer; and all bonds and coupons now in the hands of the treasurer, and redeemed under the provisions of this Act, shall be turned over to the controller and registered in like manner. All bonds and coupons redeemed by the treasurer under the provisions of this Act, shall be safely kept by the controller, to await the action of the finance and ways and means committees of the Legislative Assembly, and it shall be the duty of said joint committee during each session of the Legislature hereafter, to examine and check off all bonds and coupons redeemed under the provisions of this Act, and if found correct to destroy the same, in presence of the treasurer and controller.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

Amendatory of an Act defining the time and place for holding the Supreme Court.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The next term of the supreme court of this Territory shall be held at Boise City, the seat of government, commencing on the first Monday of September, 1879, and a term of said court shall be held annually thereafter, commencing on the first Monday of September of each year.

SEC. 2. So much of section one of an act, entitled "An Act defining the time and place for holding the supreme court," approved December 4th, 1868, as conflicts with the provisions of this Act, is hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To repeal the second section of an Act, entitled "An Act relating to the discovery of gold and silver quartz lodes and of the manner of their location," approved January 12th, 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the second section of an Act, entitled "An Act relating to the discovery of gold and silver quartz lodes and the manner of their location," approved January 12th, 1866, be, and the same is hereby repealed.

SEC. 2. That all locations hereafter made, shall be made, in conformity with, and pursuant to the provisions of the

Act of Congress of May 10th, 1872: *Provided*, That all locations made prior to the passage of this Act, in accordance with the Act of Congress of May 10th, 1872, are hereby legalized and confirmed: *Provided, further*, That nothing in this Act shall be so construed as to invalidate the vested rights of discoverers and locators.

SEC. 3. This Act to take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

To Amend the Revenue Law of Idaho Territory.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section 7 of an act of the Legislative Assembly of the Territory of Idaho, entitled "an act to provide a uniform system of territorial and county revenue, and for the assessing and collecting the same," approved January 15th, 1875, shall be, and is hereby amended to read as follows: Said assessor shall have the power of appointing one or more deputy assessor, to aid him in his official duties. The appointment shall be in writing and signed by the assessor, and shall be filed and recorded in the office of the county recorder. The assessor may revoke the appointment of any deputy at will by writing filed and recorded in the same office. Each deputy before entering upon his duties shall take the oath of office, which shall be endorsed upon his appointment. The assessor may take from each of his deputies a bond with sureties for the faithful performance of his duties; but the assessor personally shall be liable on his official bond for all acts of his deputy.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after the date of its passage.

APPROVED February 21, 1879.

AN ACT

To Provide for the Publication of Notices by the Territorial Treasurer for the Redemption of Outstanding Territorial Warrants, and to Provide a Contingent Fund Therefor, and for the Necessary Stationery for his Office.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sum of one hundred dollars is hereby annually appropriated out of any moneys in the Territorial treasury, not otherwise appropriated, for the purpose of enabling the territorial treasurer of Idaho Territory to defray the expenses of publishing notices for the redemption of outstanding territorial warrants, when the sum to be advertised shall be five hundred dollars or more, as they become due, and for the purpose of providing the necessary stationery for his office.

SEC. 2. The territorial controller is hereby authorized to draw his warrant in favor of the territorial treasurer for the above sum annually.

SEC. 3. All acts and parts of acts in conflict with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Change the Time of Meeting of the Legislative Assembly.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The Legislative Assembly of this Territory shall hereafter meet biennially at the capital on the second Monday in December, at twelve o'clock M. On the assembling of the two houses at the hour above named, the two houses shall be called to order by the presiding officer of the respective houses at the last preceding session, if they be present; in their absence, by the chief clerks; and in the absence of both the presiding officers and chief clerks of the

last preceding session, by the assistant clerks; and when all the officers here above mentioned shall be absent, then it shall be the duty of the senior member elect to call the houses to order at the time and place above specified; and all persons having certificates of election from the clerks of the boards of county commissioners of their respective counties, as members of the Legislative Assembly, and no other persons, shall have the right to participate in the organization of the respective houses.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Fix the Number and Pay of Jurors in Justices of the Peace Courts in the Territory of Idaho.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That juries in justices courts in this Territory shall be composed of six jurors having the qualifications of electors, and a less number may try any action in said courts by consent of both parties, entered in docket of said courts; and the pay of jurors in said courts shall be two dollars per day while in attendance at said courts in civil cases only.

SEC. 2. That witnesses in justices' courts shall receive two dollars a day, and twenty cents mileage (one way) for attendance at said justices' of the peace courts in civil cases only.

SEC. 3. All Acts in conflict with this Act are hereby repealed. This Act to take effect and be in full force from and after its approval by the governor.

APPROVED, February 20, 1879.

AN ACT

Supplemental to an Act entitled, "An Act Defining the Jurisdiction and practice of the Probate Courts of this Territory in Civil and Criminal Cases," approved January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Evidence by which the question of title to real property shall be raised on a trial before a probate judge must not be taken, and if it appear from the plaintiff's own showing on the trial, or from the answer of the defendant, verified by his oath, or that of his agent or attorney, that the determination of the action will necessarily involve the decision of a question of title to real property, the probate judge shall suspend all further proceedings in the action and certify the pleadings, or if the pleadings be oral a transcript of the same from his docket to the district court of the county; and from the time of filing such pleadings or transcript with the clerk of the district court shall have over the action the same jurisdiction as if it were originally commenced therein: *Provided*, That when the pleadings or transcript are certified to the district court, upon the answer of the defendant, he shall file an undertaking with two or more sufficient sureties, to be approved by the probate judge, to the effect that they will pay the costs of the action if it be decided against him by the district court.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

To Amend an Act of the Legislative Assembly of the Territory of Idaho entitled, "An Act to Prevent the Sale of Ardent Spirits, Fire Arms or Ammunition to Indians," approved January 25th, 1864.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Section One of the Act of the Legis-

lative Assembly of the Territory of Idaho entitled, "An Act to prevent the sale of ardent spirits, fire-arms or ammunition to Indians," approved January 25th, 1864, be amended to read as follows: "Section 1. Any person who shall, after the passage of this Act, sell, barter, give, or in any manner dispose of any spirituous or malt liquors, or any fire-arms or ammunition of any kind or description whatsoever to any Indian or Indians in this Territory, shall be deemed guilty of a misdemeanor, and upon due conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail for any term not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 3. This Act shall take effect from the date of its passage.

APPROVED, Feby. 17, 1879.

AN ACT

To Amend an Act entitled, "An Act to Regulate the Estates of deceased persons.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Section one hundred and thirty of said Act shall be amended by adding the following: *Provided*, That when no newspaper is published in the county the notices required by the provisions of this Act to be published shall be posted in not less than three public places in the county, one of which shall be at the court-house door, for such time, not less than four weeks, as the court may order.

SEC. 2. All Acts and parts of Acts so far as they conflict with the provisions of this Act, are hereby repealed.

SEC. 3. This Act to take effect, and be in force from and after its passage.

APPROVED, February 20, 1879.

AN ACT

Amendatory of and supplementary to an Act "To provide for the keeping and accommodation of Territorial prisoners," approved January 13th, 1871.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the penitentiary building erected by the United States, in the county of Ada, in the Territory of Idaho, be, and the same is hereby declared to be the general penitentiary and Territorial prison of the Territory of Idaho, wherein shall be confined for reformation and punishment, and employed at hard labor, all offenders who have been, or shall hereafter be convicted and sentenced according to law, to imprisonment at hard labor in the territorial prison.

SEC. 2. And, whereas by the laws of the United States, the said penitentiary is placed in charge of the United States authorities, and provision is made whereby persons offending against the laws of the Territory may be confined therein at the expense of the Territory, therefore it is the duty of the governor of this Territory to contract and arrange to and with the United States, for the reception and keeping of all territorial prisoners.

SEC. 3. It shall be the duty of the controller to advertise in some newspaper published at the capital of the territory, for sealed proposals for prison fund warrants, for the amount due the United States in lawful money for keeping territorial prisoners; said proposals to be in sealed envelopes addressed to the controller and marked "bid for prison fund warrant," and the controller shall, on the first day of each month, or on the second day (if the first day falls on Sunday), open said sealed proposals in a public manner, and at an hour to be stated in the advertisement. It shall be the duty of the governor, at the close of each month, to certify to the territorial controller the sum due the United States, in lawful money, for the keeping, boarding, clothing, washing and medical attendance of the territorial prisoners, for such month, according to contract; and the controller shall, upon such certificate and order of the governor, draw a warrant upon the prison fund in favor of the person making the highest bid for said warrant, and deliver said warrant to said highest bidder on receipt of the money therefor, and shall pay said money

over to the United States marshal, upon his receipting his monthly expense account for keeping territorial prisoners; *Provided*, That in no case shall a bid be received for such warrant for a less sum than seventy-five cents on the dollar.

SEC. 4. All persons sentenced to imprisonment in the territorial prison, shall, unless retained in the county jails under the provisions of "An Act to provide for the imprisonment of territorial prisoners in county jails in certain cases," approved January 8th, 1877, be delivered by the sheriff of the proper county, or his deputy, to the person in charge of said prison, and the officers delivering such prisoners shall be entitled to receive the following fees for such services, and no more, to-wit: for conveying, guarding and boarding one prisoner, sixty cents per mile, and for each additional prisoner, twenty-five cents per mile; and it shall be the duty of the controller to audit all of said accounts, and draw his warrant upon the territorial prison fund for the amount.

SEC. 5. That forty-five per cent. of all territorial taxes hereafter levied and collected shall be set aside, to constitute a special territorial prison fund.

SEC. 6. The controller is hereby authorized and directed to draw his warrant upon the prison fund for the sum of twenty-five dollars per annum, in favor of the publisher doing the advertising as directed in section 3 of this Act.

SEC. 7. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 8. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

For the Protection of Growing Crops in the County of Ada.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. A bounty shall be paid out of the county treasury of Ada county, of two and one-half cents for each rabbit ear, produced before the board of county commissioners of said county; *Provided*, That the piece produced shall be from the tip of the ear, and not less than one inch in length, and that the rabbit from which the same was severed was killed within the county of Ada.

SEC. 2. Any person desiring to avail himself of the provisions of this Act, shall produce the ears before the board of commissioners at its regular session, and shall also file a verified statement of the number of ears produced from rabbits killed in said county, and thereupon a county warrant shall be issued to such person upon the special rabbit ear fund for the amount of such account; and the commissioners shall proceed immediately to destroy, or cause the said rabbit ears so accepted and counted, to be destroyed by burning the same.

SEC. 3. That the county commissioners of Ada county are hereby authorized, and required to levy and cause to be collected, a special tax of not more than one-half of one per cent. on all taxable property in Ada county; said levy shall be made at the same time that other taxes are levied and collected also as other taxes, and when so collected shall be paid into the county treasury, and there become a special fund, to be known as the rabbit ear fund.

SEC. 4. "An Act for the protection of growing crops in the county of Ada," approved January 9th, 1875, [page 108, Ninth Session Laws] is hereby repealed.

SEC. 5. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

Fixing the Salaries of Certain Officers in Ada County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sheriff of Ada county shall receive a salary of one thousand dollars per annum, to be paid quarterly out of the county treasury for all services to be by him rendered or performed for said county. He shall also be allowed a jailor, for whose services he shall receive the sum of two dollars and twenty-five cents per day for each day a prisoner or prisoners are confined in the county jail. He shall also be allowed the sum of one dollar per day for each prisoner confined in the county jail, as remuneration for board, clothing and medical attendance for such prisoner, and he shall receive no other compensation for services rendered Ada county.

SEC. 2. The county auditor shall receive the sum of

six hundred dollars per annum, payable quarterly out of the county treasury, for all services to be by him performed for said Ada county, as auditor and clerk of the board of county commissioners: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 3. The county treasurer of said county shall receive the sum of five hundred dollars per annum, payable out of the county treasury quarterly, for all services to be rendered or performed by him for said county: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 4. The assessor of Ada county shall be ex-officio tax collector of Ada county, and is hereby authorized and empowered to receive and collect all per capita or poll taxes as provided by law, and he shall have the same power to enforce the payment of taxes that is provided by law for the collection of taxes by tax collectors of this Territory. The assessor shall be allowed as compensation for his services as assessor and tax collector, twelve per centum of all poll taxes for the county, and four per centum of all other taxes by him collected for the county, except school taxes, and of all taxes collected for the Territory such compensation as is allowed by law.

SEC. 5. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 6. This Act shall take effect and be in force from and after the first day of January, eighteen hundred and eighty-one.

APPROVED February 21, 1879.

AN ACT

To allow valuable Stallions kept for Breeding Purposes to run at large with the bands of their owner or owners.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. It shall be lawful for any person or persons owning any stallion or stallions of an assessed value of not less than one hundred and fifty dollars each, to allow the same to run at large with bands of mares kept by them for breeding

purposes: *Provided*, That this Act shall only apply to Nez Perce and Idaho counties.

SEC. 2. It shall be the duty of the owner or owners of stallions who wish to take advantage of the provisions of section one (1) of this Act to furnish to the assessor, each year, a description of the animals so kept.

SEC. 3. This Act to take effect and be in force from and after its passage.

APPROVED February 20, 1879.

AN ACT

To Protect Quails, Partridge and other Birds in Idaho Territory.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. It shall not be lawful for any person or persons, after the passage of this Act, within the Territory of Idaho, to kill or destroy any quail or partridge, or trap, or carry away the same, or destroy their eggs, prior to the first day of April, A. D. 1881. And it shall be unlawful for any person or persons, in this Territory, to kill any species of eagle, or to destroy their young, or eggs, at any time; and any person, or persons, who shall have any of the above described game, birds or fowl, in his or their possession, so killed, or destroyed, or shall offer the same for sale, said possession or offer of sale shall be prima facie evidence of a violation of this Act, and any person or persons who shall willfully violate the provisions of this Act, shall, upon conviction thereof, before a justice of the peace or other civil magistrate, be fined in any sum, not less than ten dollars, and not exceeding one hundred dollars, for each and every offence committed, and shall be imprisoned one day, for every two dollars, of said fine and costs, until the same is paid.

SEC. 2. All laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3 This Act to take effect from and after its passage.

APPROVED February 17, 1879.

AN ACT

To Organize the County of Washington.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That all those portions of territory of Ada and Idaho counties, in the Territory of Idaho, embraced and included within the following lines, to-wit: commencing at a point in Snake river where the second standard parallel "U. S. Survey" intersects the same; thence east along said line to where said line intersects the line dividing Boise and Ada counties; thence northerly upon said boundary line to the summit dividing the waters of the Payette and Weiser rivers; thence along said divide in a northerly direction to a point on said divide where the waters flow into Little Salmon; thence in a north-easterly direction on a low divide separating the waters of the Little Salmon and Payette rivers to a point easterly from the northern point of Little Salmon Meadows; thence westerly, passing the northern point of Little Salmon Meadows, to a point on the summit of the divide between Little Salmon and Snake rivers; thence in a south-west direction to a point opposite the mouth of Cliff river; thence up the centre of the channel of Snake river to the place of beginning, be, and the same is hereby, organized into a county to be called the County of Washington.

SEC. 2. The said County of Washington shall, from and after the passage of this Act, be exempt from all jurisdiction and control of the officers of Ada and Idaho counties, except that all taxes heretofore levied upon any person or property by the counties last named, and which have not been paid, may be collected in the same manner as though this Act had not been passed.

SEC. 3. The recorder of the County of Washington, who shall be hereafter elected, is hereby required to transcribe into books to be procured for that purpose, such parts of the records and files of Ada and Idaho counties as relate to matters within the county created by this Act, and the same shall have full force and effect, and be of the same degree of evidence, as the original files and records.

SEC. 4. That S. M. Jeffreys, Nelson Haven and Isaac Spoors, are hereby designated and appointed a Board of County Commissioners in and for the said County of Washington, who

shall hold their offices until their successors are elected and qualified as provided for in this Act.

SEC. 5. The said board of county commissioners shall meet at some point within said county of Washington, decided on by the said board, or a majority thereof, on the second Monday of March, A. D. 1879, and shall then and there proceed to establish all the necessary election precincts within said county, and appoint the judges of election in the said precincts.

SEC. 6. An election shall be held at the various precincts in said county of Washington, on the second Monday in April, one thousand eight hundred and seventy-nine, subject to the laws and regulations governing general elections, at which election all county and precinct officers for said county shall be chosen, and the several officers so chosen shall, within twenty days thereafter, duly qualify according to law, and enter upon the discharge of the duties of their respective offices: *Provided*, That all precinct officers who are in office at the time of the passage of this law, shall hold their offices in the said county of Washington, until their successors shall have been elected and qualified.

SEC. 7. The term of office of all the officers elected under the provisions of this Act, shall expire on the first Monday in January, one thousand eight hundred and eighty-one.

SEC. 8. The county of Washington shall pay to the treasurer of Ada county, a just and equitable proportion of the debts, for which the said county of Ada is now liable; and the auditors of said counties of Washington and Ada shall, on or before the first Monday in May, one thousand eight hundred and seventy-nine, [meet] at Boise City, in the county of Ada, and apportion the same, and ascertain the amount to be paid as aforesaid, from the assessment rolls of said county for the year one thousand eight hundred and seventy-eight, and in case the said auditors shall be unable to agree as to such apportionment, they shall refer the matter in difference between them to the judge of the second judicial district, who shall determine the same, and such determination shall be final: *Provided*, That all moneys apportioned to the several school districts within said county of Washington, and in charge of the treasurer of Ada county, at the time of the passage of this Act, shall be subject to the demands of the trustees of said district, the same as if this Act was not in force.

SEC. 9. That when the amount required by this Act to be paid by the county of Washington, to the county of Ada, shall have been ascertained and adjusted as herein provided,

the same shall be reported to the board of county commissioners of Washington county, and thereupon the county auditor of Washington county shall draw the warrants of the county of Washington in sums not exceeding five hundred dollars each, for the total amount of such indebtedness, and shall deliver the same to the county treasurer of Ada county, in payment of the indebtedness of Washington county to the said county of Ada, and said warrants shall draw interest at the rate of ten per cent. per annum, and be paid as hereinafter provided.

SEC. 10. The board of county commissioners of Washington county shall, at the time of levying taxes for the year 1879 and annually thereafter, levy a special tax of not to exceed five mills on each and every dollar of taxable property in said county of Washington, which shall be a permanent sinking fund, and shall be paid by the treasurer of Washington county, as soon as collected, to the treasurer of Ada county, in satisfaction of said warrants; and when the whole sum of indebtedness shall be satisfied, from the proceeds of said special tax, or in any other manner provided by the county of Washington, said special tax shall cease.

SEC. 11. That at the special election as is provided for in section six of this Act, the question of the permanent location of the county seat, shall be decided by the vote of the people, citizens and resident in the said county of Washington.

SEC. 12. This Act shall take effect and be in force from and after its passage.

APPROVED, February 20, 1879.

AN ACT

Defining the Duties and Fixing the Fees and Compensation of the County Officers of Washington County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county officers of Washington county, shall be entitled to receive for their services as such officers, the same fees and percentage as are now allowed to the officers of Ada county, except as hereafter provided for in this Act.

SEC. 2. The county officers of Washington county shall perform similar duties, and render all kinds of services as are now, by law, performed and rendered by the county officers of

Ada county: *Provided*, That no salary shall be allowed the probate judge, county recorder and auditor, nor county treasurer and sheriff, other than the fees and per centage allowed to the officers of Ada county.

SEC. 3. Each of the members of the board of county commissioners shall be allowed one hundred dollars per annum, as salary, and ten cents per mile for every mile traveled in going to and returning from said session of the board, and no other fees or compensation whatever for any services rendered as commissioner.

SEC. 4. The assessor and tax collector of Washington county shall be allowed the same fees and percentage paid the assessor and tax collector of Ada county: *Provided*, That he shall only be allowed the sum of five dollars per day, for assessing the county of Washington: *And Provided, further*, That he shall only be allowed the period of twenty-five days within which to perform such duty.

SEC. 5. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

Creating and Organizing the County of Cassia.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That all that portion of the county of Owyhee contained within the following boundaries, to wit: Commencing at a point in the center of Snake river, where the meridian of longitude one hundred and thirteen degrees would cross that river; thence down that river to the 38th meridian of longitude, (west from Washington); thence south along said meridian to the line dividing Idaho and the State of Nevada; thence due east along said line to said meridian of longitude one hundred and thirteen degrees; thence due north along said meridian to the place of beginning; be and the same is hereby organized into a new county, to be called the county of Cassia.

SEC. 2. That J. Q. Shirley, R. N. Howell, J. E. Harrington be, and the same are hereby, appointed county commissioners pro tempore, for said county, who shall hold their res-

pective offices until their successors are elected and qualified as hereinafter provided by this act.

SEC. 3. The commissioners so appointed shall respectively take their oaths of office, and enter upon their duties upon the first Monday in April, A. D. 1879, and shall immediately proceed and appoint such *pro tempore* county officers, for said county of Cassia, as are provided by law for the other counties of this Territory, who shall take their respective oaths of office, and hold their respective offices until their successors are elected and qualified; and said board of *pro tempore* county officers, of said county of Cassia, shall be governed by the general laws of this Territory, prescribing the duties of said officers, except as herein provided: *Provided*, That the several precinct officers now in office in the several precincts within said county shall hold their offices during the term for which they were respectively elected, and the oaths of office of the county officers aforesaid may be taken before any justice of the peace, in either of said precincts, and said county commissioners shall have power to select a temporary place within said county of Cassia for the county seat, pending an electian by the people for the same.

SEC. 4. There shall be a special election held in the county of Cassia on the first Monday in June, A. D. 1879, for the election of all county officers provided for by law for other counties in this Territory, including a board of county commissioners; and such special election shall be conducted and subject to the laws governing general elections as provided by statute for the holding of elections in this Territory, and on the second Monday thereafter the county officers so elected, shall qualify as provided by law for such officers, and enter upon the duties of their respective offices, and hold the same until their successors are duly elected and qualified at the next general election; and the board of commissioners of said county of Cassia, shall on said last named day hold a special meeting of their board for the approval of the bonds of said county officers so elected at said special election and for the transaction of such business as may come before them.

SEC. 5. That at the said special election as is provided for in said Section 4 of this Act, the question of the permanent location of the county seat shall be decided by the vote of the people resident in the said county of Cassia.

SEC. 6. The said county of Cassia shall from and after the passage of this Act, be exempt from all jurisdiction and control of the officers of Owyhee county, except that all taxes heretofore levied upon any persons or property prior to January first,

1879, by the county last named, and which have not been paid, may be collected in the same manner as though this Act had not been passed.

SEC. 7. The recorder of the county of Cassia, who shall be hereinafter elected, is hereby authorized to transcribe into books to be procured for that purpose such parts of the records and files of Owyhee county as relate to matters within the county created by this Act, and the same shall have the same force and effect and be of the same degree of evidence as the original files and records.

SEC. 8. That the county auditor of Cassia county shall meet the county auditor of Owyhee county, at Silver City, Owyhee county, Idaho, at such time as they shall agree upon; *Provided* said meeting shall take place before Sept. 1st., A. D. 1879, and from the books and records of said county last named, shall ascertain the total amount of indebtedness, and also the amount of cash on hand in the treasury of Owyhee on the day of the taking effect of this Act, and shall ascertain from the assessment roll of the county of Owyhee for the year 1878, the amount of property assessed in the portion of said county of Owyhee hereby organized as the county of Cassia; and the county of Cassia is hereby required to pay to the county of Owyhee the *pro rata* proportion of said indebtedness of said county of Owyhee, as shown by said assessment roll, after deducting the amount of uncollected taxes for the year 1878 within said county of Cassia, which may be paid previous to said adjustment; and, *Provided*, that all moneys apportioned to the several school districts within the said county of Cassia, and in charge of the treasurer of Owyhee county, at the time of the passage of this Act, shall be subject to the demands of the trustees of said districts, the same as if this Act had not gone in force, until an election and qualification of a treasurer for said Cassia county, when the balance due said school districts, shall be paid over to said treasurer, who shall give his receipt therefor; and in case such auditors shall be unable to agree as to such apportionment, they shall refer the matter in difference between them to the judge of the second judicial district, who shall determine the same, and such determination shall be final.

SEC. 9. That when the amount required by this Act to be paid by the County of Cassia to the County of Owyhee shall have been ascertained and adjusted as herein provided, the same shall be reported to the board of county commissioners of Cassia county, and thereupon the county auditor of Cassia county shall draw the warrants of the county of Cassia in sums not exceeding five hundred dollars each, for the total amount of

such indebtedness, and shall deliver said warrants to the county treasurer of Owyhee in payment of the indebtedness of Cassia county, to the said county; and such warrants shall draw interest at the rate of ten per cent. per annum, and be paid as hereinafter provided.

SEC. 10. The board of county commissioners of Cassia county shall, at the time of levying taxes for the year 1879, and annually thereafter, levy a special tax of five mills on each and every dollar of taxable property in said county of Cassia, which shall be a permanent sinking fund, and shall be paid by the treasurer of Cassia county, as soon as collected, to the treasurer of Owyhee county in satisfaction of said warrants, and when the whole sum of said indebtedness shall be satisfied from the proceeds of said special tax, or in any other manner provided by the county of Cassia, said special tax shall cease: *Provided*, That no expense connected with the fulfillment of this Act shall be borne by the county of Owyhee.

SEC. 11. This Act shall take effect from and after its approval by the governor.

APPROVED Feby. 20, 1879.

AN ACT

Fixing the Salaries of Certain Officers in Shoshone County.

Be it enacted by the Legislative Assembly of Idaho, as follows:

SECTION 1. The county auditor shall receive the sum of three hundred dollars per annum, payable quarterly out of the county treasury, for all services to be by him rendered to and for Shoshone county: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 2. The assessor of Shoshone county shall be allowed as compensation for his services the sum of five dollars per day: *Provided*, That the board of commissioners may fix the number of days for which pay shall be allowed: *Provided, also*, That the assessor shall be allowed of all taxes collected for the Territory such compensation as is allowed by law.

SEC. 3. This Act shall take effect and be in force from and after its passage.

APPROVED, February 20, 1879.

AN ACT

To amend an Act, entitled "An Act to Incorporate Boise City, in Ada County," approved January 11th, A. D. 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section five (5) of the above entitled Act shall be amended to read as follows: Section 5. Said mayor and common council shall have full power and authority to levy taxes for municipal purposes, not to exceed one-half of one per centum per annum upon all taxable property in said city, and to collect the same in the manner hereinafter prescribed; to prevent and restrain any disturbance or disorderly conduct, riot, drunkenness, or any indecent or immoral practice within the limits of said city; to make such regulations as shall promote the health, peace, cleanliness and good order within said city; to control and regulate the fire department and to provide by ordinance for the election of the officers of such fire department by the members thereof, specifying such officers and defining their duties; to open and establish streets and widen the same, when deemed necessary, and for that purpose to condemn property for the city use, under such regulations as they may provide by ordinance for that purpose; but the amount to be paid to the claimant shall be fixed by three disinterested persons, after due notice to the claimant, and hearing all the evidence to be offered, their report to be afterwards acted upon by the council. The claimant of such property shall be entitled to an appeal from the decision of said council, or of any commissioners or appraisers appointed by them, to the district court, by filing with the clerk of the council within ten days after such decision shall be rendered, a bond with security in double the value of property so claimed, to be approved by the said clerk, conditioned for the payment of all costs of said appeal, and to surrender the property if so required by the district court. The mayor and council shall have power to make all needful by-laws, ordinances and regulations not repugnant to the constitution, or laws of the United States, nor to the laws of this Territory; they shall also have power to prescribe their own rules for doing business; they also shall have power to remove and prevent nuisances; and they shall have the power and authority to license, tax and regulate all theaters, opera singers, caravans, menageries or circus

performances, and all traveling shows; and also the power to license and tax—not to exceed the sum of twenty-five ($25) dollars per quarter—all houses or places of business that sell or dispose of spirituous, malt, or fermented liquors, or wines, in less quantities than one quart, and shall provide by ordinance the manner of collecting the same, and penalty for a refusal or neglect to obtain such license.

SEC. 2. That all such licenses shall be collected by the city marshal, and paid into the city treasury.

SEC. 3. That the city treasurer of said Boise City shall pay quarterly, to-wit, on the first Monday of January, April, July and October, to the territorial treasurer, two-tenths (2–10) of all the moneys collected for any and all such licenses as are provided by this Act (after deducting four per cent. thereon for collecting the same, which shall go to the city marshal,) and take duplicate receipts therefor; file one with the territorial controller and one with the city clerk.

SEC. 4. Section 12 of the above entitled Act is hereby repealed.

SEC. 5. An Act entitled "An Act to amend an Act to incorporate Boise City, in Ada county," approved January 15th, A. D. 1869, is hereby repealed.

SEC. 4. All Acts and parts of Acts, in conflict with this Act, is hereby repealed.

SEC. 7. This Act to take effect and be in force from after the thirty-first day of March, A. D. 1879.

APPROVED February 21, 1879.

AN ACT

To Repeal an Act relating to Quartz Claims in the First Judicial District, &c.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That an Act entitled an Act relative to quartz claims in the first judicial district of this Territory, embracing the counties of Idaho, Nez Perce, Shoshone, Lah Toh and Kootenai, approved January 12th, 1866, be and the same is hereby repealed.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED February 17, 1879.

AN ACT

To Reduce the Fees of Auditor and Recorder in Nez Perce County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The auditor and recorder of Nez Perce county shall be allowed fifteen cents per folio for all deeds or mortgages recorded by him, and no more.

SEC. 2. Section one of this Act shall not apply to any other paper than those mentioned above, nor shall it be construed so as to change any other fees allowed by law.

SEC. 3. This Act to take effect and be in force on and after its passage and approval by the governor.

APPROVED February 21, 1879.

AN ACT

Amendatory of and Supplementary to an Act entitled, "An Act to Amend an Act Concerning Roads and Highways in Boise County," approved January 10th, 1873.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Section five of said Act be amended by adding after the word contract in the seventh line: And it shall be the duty of at least one of the county commissioners to personally examine said road and highway before issuing such certificate: Provided, That such county commissioner shall receive the sum of six dollars per day, and mileage, as provided by law for said services.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

To Amend an Act, entitled "An Act in Relation to the Construction of Bridges, Ferries, Roads and Trails," approved December 20th, A. D. 1864.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the following proviso shall apply to section 5 of said Act: But for any bridge or ferry established over any stream or any slough in this Territory, for the benefit or convenience of any settlement or neighborhood, and not on any of the main thoroughfares of this Territory, the county commissioners may fix the rate of license, in any sum not less than five dollars; having due regard to the profits to be derived by said privilege.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Amend an Act, entitled "An Act Defining the Rights of Husband and Wife," approved Jan. 6th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Sec. 11 be amended to read as follows: Upon the dissolution of the community by the death of the wife, the entire common property, without administration, shall belong to the surviving husband, if he shall not have abandoned and lived separate and apart from her; but if the husband shall have abandoned his wife, and lived separate and apart from her, the half of the common property, subject to the payment of the debts chargeable to it, shall be at her testamentary disposition; and in the absence of such disposition, goes to her descendants or heirs at law, exclusive of her husband. Upon the dissolution of the community by the death of the husband, one-half the common property shall go to the surviving wife, and the other half shall be subject to the testa-

mentary disposition of the husband, and in the absence of such disposition goes to his descendants, equally, if such descendants are in the same degree of kindred to the decendent; otherwise according to the right of representation, and in the absence of both such disposition and such descendants, shall be subject to distribution in the same manner as the separate property of the husband. In case of the dissolution of the community by the death of the husband, the entire community property shall be equally subject to his debts, the family allowance, and the charges and expenses of administration.

SEC. 2. That all Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

APPROVED Feby. 21, 1879.

AN ACT

Declaring the Palouse River Navigable.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the Palouse river, in Nez Perce county, be, and the same is hereby declared navigable from the "Palouse bridge," at the crossing of the old Nez Perce trails, to the mouth of Red Sand creek, being a distance of about thirty-five miles by the line of the river, for the purpose of driving and floating, logs, timber, rails and other material.

SEC. 2. Every person who shall obstruct in any manner the channel of said Palouse river, on conviction thereof by a court of competent jurisdiction, shall be fined in a sum of not less than fifty dollars nor more than five hundred dollars and costs: *Provided*, That the placing of any mill dam or boom across said stream shall not be construed to be an obstruction to the navigation aforesaid, if the same be so constructed as to allow the passage of logs, timber, rails or other material without unreasonable delay: *And Provided, further*, That all mill dams shall be so constructed with chutes as to admit the free passage of fish up or down said stream.

SEC. 3. This Act to take effect and be in force from and after its passage.

APPROVED February 14, 1879.

AN ACT

To Amend "An Act Authorizing and Directing the Collection of Hospital Tax in Nez Perce County," approved January 9th, 1877.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Strike out the words "two dollars" in the third line of section 1 of said Act, so as to read one dollar. Also strike out the words "fifteen per centum," so as to read seven per centum, in tenth and eleventh lines of section 1 of said Act.

SEC. 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

APPROVED February 20, 1879.

AN ACT

To Amend an Act, entitled "An Act to Regulate the Catching of Fish in the Counties of Oneida and Bear Lake, in this Territory."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the time of five years as provided for in section one of "An Act to regulate the catching of fish in the counties of Oneida and Bear Lake, in this Territory," be, and the same is hereby amended so as to extend the operations of said Act for the period of five years from the passage of this Act: *Provided*, The operations of this Act shall extend to the county of Bear Lake only.

SEC. 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 3. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To provide for the Compensation of certain Persons, for services rendered the Territory of Idaho, during the Tenth Session of the Legislative Assembly thereof.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The territorial controller is hereby authorized and directed to draw his warrants on the territorial treasurer, and the territorial treasurer is hereby directed to pay out of any money in the territorial treasury, not otherwise appropriated, the following sums to the following-named persons, viz.: To I. S. Weiler, for services as assistant clerk of the Council, the sum of two hundred and thirty-five and 29–100 dollars; to Miss Julie E. Henderson, for services as assistant engrossing and enrolling clerk of the Council, the sum of two hundred and thirty-five 29–100 dollars; to John N. Wallace, for services as assistant sergeant-at-arms of the Council, the sum of one hundred and fifty-two and 94–100 dollars; to A. J. Borland, for services as door-keeper of the Council, the sum of eighty-two and 35–100 dollars; to William E. Child, for services as assistant clerk of the House, the sum of two hundred and thirty-five and 29–100 dollars; to Miss Jennie Allington, for services as enrolling clerk of the House, the sum of two hundred and thirty-five and 29–100 dollars; to Len White, for services as door-keeper of the House of Representatives, the sum of two hundred and thirty-five and 29–100 dollars: *Provided*, That should Congress make provisions for paying for the services herein enumerated, prior to the adjournment of the present session of the Legislative Assembly of the Territory of Idaho, then the foregoing sums shall not be paid by the said territorial treasurer: *And Provided, further*, That should Congress at any time after the adjournment of this session as aforesaid, then the money so appropriated by Congress shall be payable into the treasury of the Territory of Idaho, and shall constitute a part of the redemption fund thereof.

SEC. 2. This Act shall take effect and be in force from and after its passage.

COUNCIL CHAMBER,
Boise City, February 21, 1879.

I hereby certify that the within Council Bill No. 36, enti-

tled "An Act to provide for the compensation of certain persons for services rendered the Territory of Idaho during the Tenth Session of the Legislative Assembly thereof," was this day returned to the Council Chamber of the Tenth Session of the Legislative Assembly of the Territory of Idaho, by the governor thereof, with his objections to the Bill.

Thereupon the question being, Shall the Bill pass notwithstanding the objections of the governor? The ayes and nays were called as follows:

Ayes—Messrs. Hart, High, Jenkins, Manning, Nordyke, Parsons, Pettengill, Pierce, Regan, Shoup, Travis, Yantis and Mr. President—13. *Nays*—None.

And so the Bill passed notwithstanding the objections of the governor.

Attest:

N. B. WILLEY,
President of the Council.

J. W. GARRETT,
Chief Clerk.

HOUSE OF REPRESENTATIVES,
Boise City, February 21st, 1879.

I hereby certify that the within Council Bill No. 36, entitled "An Act to provide for the compensation of certain persons for services rendered the Territory of Idaho during the Tenth Session of the Legislative Assembly thereof," was this day returned to the House of Representatives of the Tenth Session of the Legislative Assembly of Idaho Territory, by the governor thereof, with his objections to the Bill.

Thereupon the question being, Shall the Bill pass notwithstanding the objections of the governor? The ayes and nays were called as follows:

Ayes—Messrs. Allison, Baldwin, Butler, Callaway, Cooper, Chapin, Gray, Harden, Jones, King, Meyer, Newsome, Nichols, Pearson, Rich, Bobb, Spencer, Stalker, Varney, White, Mr. Speaker—21.

Nays—Messrs. Humphrey, Maxon, Weatherman—3.

And so the bill passed, notwithstanding the objections of the governor.

Attest:

J. W. BIRDSEYE,
Speaker of the House of Representatives,

JAMES H. WICKERSHAM,
Chief Clerk.

AN ACT

To amend an act, entitled "An Act defining the duties and fixing the salary of Territorial Controller," approved January 6th, 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That in section 14 of an act, entitled "An act defining the duties and fixing the salary of Territorial Controller," approved January 6th, 1866, the words "two hundred and fifty dollars" be stricken out, and the words "five hundred dollars" be inserted in lieu thereof.

SEC. 2. All acts and parts of acts in conflict with the provisions of this Act, be, and the same are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

HOUSE OF REPRESENTATIVES,
BOISE CITY, February 21st, 1879.

I hereby certify that the within House Bill (No. 17), entitled "An Act to amend an Act entitled an Act defining the duties and fixing the salary of territorial controller," approved January 6th, 1866, was this day returned to the House of Representatives of the Tenth Session of the Legislative Assembly of Idaho Territory by the governor thereof, with his objections to the bill.

Thereupon the question being, "Shall the bill pass notwithstanding the objections of the governor?" The ayes and nays were called as follows:

Ayes—Allison, Baldwin, Butler, Callaway, Cooper, Gray, Harden, Humphrey, Jones, King, Meyer, Nichols, Pearson, Rich, Robb, Spencer, Stalker, Varney, White, Mr. Speaker—20.

Nays—Messrs. Chapin, Maxon, Newsome, Weatherman—4.

And so the bill passed, notwithstanding the objections of the governor.

Attest:

J. W. BIRDSEYE,
Speaker of the House of Representatives.

J. H. WICKERSHAM, Chief Clerk.

COUNCIL CHAMBER,
BOISE CITY, I. T., February 21st, 1879.

I hereby certify that the within House Bill (No. 17), en-

titled an Act to amend an Act entitled "An Act defining the duties and fixing the salary of territorial controller," approved January 6th, 1866, was this day returned to the Council of the Tenth Session of the Legislative Assembly of Idaho Territory by the governor thereof, with his objections to the bill.

Thereupon the question being, "Shall the bill pass notwithstanding the objections of the governor ?" The ayes and nays were called with the following result:

Ayes—Messrs. Hart, High, Manning, Nordyke, Parsons, Pettengill, Regan, Shoup, Travis, Mr. President—10.

Nays—Messrs. Jenkins and Pierce—2; absent Mr. Yantis—1. And so the bill passed, notwithstanding the objections of the governor.

Attest:

N. B. WILLEY,
President of the Council.

J. W. GARRETT,
Chief Clerk.

AN ACT

Granting leave of absence from this Territory to James W. Poe, James H. Hawley and Willard Crawford.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That James W. Poe, district attorney of the first judicial district, James H. Hawley of the second, and Willard Crawford of the third judicial district of this Territory, be and the same are hereby granted leave of absence from the districts and Territory aforesaid for a period of four months, each, selected by themselves within such term of office, and such absence shall not create a vacancy in said office: *Provided*, That the abaence of said James W. Poe, James H. Hawley and Willard Crawford shall not be taken during the session of court held in the districts above mentioned: Provided further, That before such absence shall commence either of said attorneys shall file with the clerk of the district court of his district an acceptance of such leave, and shall have appointed a deputy to perform the duties of his office, as by statute in other cases made and provided.

SEC. 2. That this Act shall take effect and be in force from and after its passage.

APPROVED February 13, 1879.

AN ACT

To empower the Board of County Commissioners of Owyhee county to audit the accounts of A. Haas and Geo. Drew, late Probate Judges and ex-officio Probate Clerks of said county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of Owyhee county in the Territory of Idaho, are hereby empowered to audit the accounts of A. Haas, late probate judge and ex-officio clerk of the probate court of said county during the years of 1875 and 1876, and if it appears to said board of commissioners that the said county does owe said A. Haas any amount for services rendered said county as probate judge and ex-officio clerk of the probate court, they shall allow and order the same to be paid, as other county current expenses are allowed and paid; and be it further provided, that the board of county commissioners of Owyhee county, in the Territory of Idaho, are hereby empowered to audit the accounts of George Drew, late probate judge and ex-officio clerk of the probate court of said county, during the year of 1877, and if it appear to said board of county commissioners, that the said county of Owyhee does owe said George Drew any amount for services performed as probate judge and ex-officio clerk of the probate court of said county, they shall allow and order the same to be paid, as other county current expenses are allowed and paid.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Dissolve the Bonds of Matrimony between Mary Jane Robbins and Charles E. Robbins.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the bonds of matrimony now existing

between Mary Jane Robbins and Charles E. Robbins, be and the same are hereby absolutely dissolved, and the marriage relations rendered null and void, and that the said Mary Jane Robbins shall be remitted to, and shall be entitled to use, and be designated by her maiden name, to-wit: Mary Jane Fuson.

SEC. 2. This Act shall take effect and be in force from and after its approval by the Governor.

APPROVED February 17, 1879.

AN ACT

To extend an Act entitled "An Act to Restrain the Herding of Sheep" in Alturas, Ada and Boise counties, approved January 14th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The provisions of an Act entitled "An Act to restrain the herding of sheep" in Alturas, Ada and Boise counties in the Territory of Idaho, approved January 14th, 1875, are hereby extended and made to include the counties of Nez Perce and Idaho counties in said Territory.

SEC. 2. This Act to take effect and be in force from and after its passage and approval by the Governor.

APPROVED February 13, 1879.

AN ACT

To Dissolve the Bonds of Matrimony existing between Bud Thomas and Sarah E. Thomas.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the bonds of matrimony now existing between Bud Thomas and Sarah E. Thomas, both of Owyhee county, be, and the same are hereby dissolved.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Amend and Extend an Act, entitled "An Act Concerning Hogs found running at large in Ada County, in the Territory of Idaho," approved January 11th, 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The provisions of an Act, entitled "An Act concerning hogs found running at large in Ada county, in the Territory of Idaho," approved January 11th, 1866, are hereby extended and made to include the county of Nez Perce, in said Territory.

SEC. 2. Section 4 of said Act shall be amended by substituting the words, "within ten (10) days," for the words, "within sixty days," in line 3 of said section.

SEC. 3. This Act to take effect and be in force from and after its passage and approval by the governor.

APPROVED, February 17, 1879.

AN ACT

Relating to the Discovery of Gold and Silver Quartz lodes in Lemhi County and the manner of their location.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That an Act entitled an Act relating to the "Discovery of gold and silver quartz lodes in Lemhi county and the manner of their location," approved January 9th, 1877, be and the same is hereby amended:

Section 2, lines 8, 9, 10 and 11 to read as follows: That the recorder shall be entitled to receive the sum of three dollars for each and every claim so recorded.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED, Feby. 21, 1879.

AN ACT

For the Relief of the North Western Stage Company.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the sum of eight hundred and eighty ($880) dollars, be and the same is hereby appropriated, for the payment of the claim of the North Western Stage Company, against the Territory of Idaho, for the years 1877 and 1878, for cash advanced to John R. Foster & Co., at Umatilla, Oregon, for advance charges on arms and ammunition consigned to the Governor of Idaho, and for carrying said arms and ammunition from Umatilla, Oregon to Boise City, Idaho,

SEC. 2. The controller of Idaho Territory is hereby directed to draw his warrant on the territorial treasurer, in favor of the said North Western Stage Company, for the sum appropriated by this bill, payable out of any money in the territorial treasury not otherwise appropriated.

SEC. 3. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Amend an Act entitled, "An Act relating to Fences and Trespasses in the Counties of Nez Perce, Oneida and Idaho," approved January 7th, 1873.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The words Nez Perce in Section one of above entitled Act shall be stricken out, and Section seven of above entitled Act shall be amended so as to read as follows: "This Act shall apply to and be in force only in the counties of Oneida and Idaho."

SEC. 2. This Act to take effect and be in force from and after its passage and approval by the governor,

APPROVED Feby. 17, 1879.

AN ACT

Regulating the Salary and Fees of the Probate Judges of Lemhi and Boise Counties.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The probate judges of Lemhi and Boise counties shall each receive a salary of five hundred dollars per annum, to be paid quarterly out of the general fund of said counties, to be audited and allowed as other claims against said counties are audited and allowed. And they shall receive in addition to said salary of five hundred dollars, each, the same fees as probate judges and ex-officio clerks of the probate court are now allowed by law.

SEC. 2. All Acts and parts of Acts, so far as they conflict with the provisions of this Act, are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 20, 1879.

AN ACT

To Regulate the Fees and Compensation of the Probate Judge of Shoshone County, Territory of Idaho.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The probate judge of the county of Shoshone, in the Territory of Idaho, shall receive the same fees as probate judges and ex-officio clerk of the probate judges of other counties of this Territory.

SEC. 2. An Act, entitled "An Act regulating the salary and fees of the probate judge of Shoshone county," passed at the Ninth Session of the Legislative Assembly thereof, and all laws passed prior or subsequent thereto, in conflict with the provisions hereof, are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

Defining the Duty and Power of the County School Superintendent of Owyhee County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the county superintendent of schools of Owyhee county, be, and he is hereby empowered to reapportion to the several school districts of said county, any and all money remaining in the treasury of said county on September 1st, 1879, to the credit of any school district in said county, which have failed to comply with the provisions of the school law, for one year or more previous to September 1st, 1879.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

AN ACT

Granting leave of absence to Stephen B. Dilley, Probate Judge of Alturas county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Stephen B. Dilley, probate judge of Alturas county, be and is hereby granted leave of absence from the Territory of Idaho for a period of sixty days during the year 1879. The time of such absence to be selected by himself within such year, and such absence shall not create a vacancy in such office.

SEC. 2. This Act shall take effect and be in force from and after its passage.

AN ACT

To dissolve the bonds of matrimony between Julia Wells and Elijah Wells, her husband.

Be it enacted by the Legislative Assembly of Idaho, as follows:

SECTION 1. That the bonds of matrimony now and heretofore existing between Julia Wells and Elijah Wells, her husband, be and the same are hereby dissolved and said marriage declared null and void.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To change the names of Serena Turpin and Sarah Ellen Turpin to Serena Poe and Sarah Ellen Poe.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the name of Serena Turpin and Sarah Ellen Turpin are hereby changed to Serena Poe and Sarah Ellen Poe.

SEC. 2. This Act shall take effect from and after its passage.

APPROVED February 13, 1879.

AN ACT

To Dissolve the Bonds of Matrimony between Adolph Jacobson and Adriette Jacobson, his wife.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the bonds of matrimony now, and

heretofore existing between Adolph Jacobson and Adriette Jacobson, his wife, be, and the same are hereby dissolved, and said marriage declared null and void.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

Dissolving the Bonds of Matrimony between E. Payne and Ida E. Payne.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the bonds of matrimony between E. Payne and Ida E. Payne, be, and the same are hereby dissolved and both of the said parties are absolutely freed from the obligations thereof.

SEC. 2. This Act to take effect and be in force from and after its passage.

APPROVED February 21, 1879.

AN ACT

To Dissolve the Bonds of Matrimony between Mary Ellen Sims and William D. Sims.

Be it enacted by the Legislative Assembly of Idaho, as follows:

SECTION 1. That the bonds of matrimony now existing between Mary Ellen Sims and William D. Sims, be, and the same are absolutely dissolved, and that the said Mary Ellen Sims, shall be permitted to, and shall be entitled to use and be designated by her maiden name, to-wit: Mary Ellen Cummins.

SEC. 2. This Act shall take effect and be in force from and after its passage.

APPROVED Feby. 21, 1879.

COUNCIL CONCURRENT RESOLUTION.

Resolved by the Council, the House concurring, That the sum of three hundred dollars be appropriated out of any moneys in the territorial treasury not otherwise appropriated, as compensation to Louis Scholl and William H. Redway, of Boise City, being one hundred and fifty dollars each for services rendered by order of E. J. Curtis, secretary of Idaho, in writing and recording the Council and House journals of the Ninth Legislative Assembly, and the territorial controller is hereby authorized and directed to draw his warrant on the territorial treasurer for the sum of one hundred and fifty dollars each, to Louis Scholl and William H. Redway, and the territorial treasurer is hereby authorized and required to pay the same out of any moneys in the territorial treasury not otherwise appropriated.

HOUSE OF REPRESENTATIVES,
BOISE CITY, Feby. 21st, 1879.

I hereby certify that the within Council Concurrent Resolution No. 4, was this day returned to the House of Representatives of the 10th Session of the Legislative Assembly of Idaho Territory by the governor thereof, with his objections to the bill.

Thereupon the question being, "Shall the resolution pass notwithstanding the objections of the governor?" The ayes and nays were called, as follows:

Ayes—Messrs. Allison, Baldwin, Butler, Callaway, Cooper, Gray, Harden, Humphrey, Jones, King, Maxon, Meyer, Newsome, Nichols, Pearson, Rich, Robb, Spencer, Stalker, Varney, Weatherman, White—22.

Nays—Chapin, Mr. Speaker—2,

And so the resolution passed notwithstanding the objections of the governor.

Attest:

J. W. BIRDSEYE,
Speaker of the House of Representatives.

JAMES H. WICKERSHAM,
Chief Clerk.

COUNCIL CHAMBER,
Feby. 21, 1879.

I hereby certify that the within Council Concurrent Reso-

lution No. 4, was this day returned to the Council of the 10th Legislative Assembly of the Territory of Idaho by the governor thereof, with his objection to the bill.

Thereupon the question being, "Shall the resolution pass notwithstanding the objections of the governor?" The ayes and nays were called, as follows:

Ayes—Hart, High, Manning, Nordyke, Parsons, Pettengill, Regan, Shoup, Travis, Yantis.

Nays—Jenkins, Pierce, Mr. President.

And so the resolution passed notwithstanding the objections of the governor.

Attest:

N. B. WILLEY,
President of the Council.

J. W. GARRETT,
Chief Clerk of the Council.

COUNCIL MEMORIAL NO. 3.

To the Honorable the Senate and House of Representatives of the United States:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, most respectfully represent that the eastern portion of this Territory is being rapidly settled up through facilities afforded by the advent and progress of the Utah and Northern railroad; and that this portion of our Territory comprises eastern Owyhee, Oneida, Lemhi and Bear Lake counties, many of whose citizens must, in order to transact business with the land office of this Territory, travel from five to seven hundred miles to reach the land office in Boise City, and as a consequence the lands remain unsold, our citizens are unable to obtain titles to their homestead and pre-emption claims, and the land office has no revenue from that source.

We, therefore, your memorialists, most earnestly pray that a local land office be established at the town of Blackfoot, Oneida county, situated in a central portion of the district herein named, and contiguous to the Utah and Northern railroad.

And your memorialists will ever pray.

COUNCIL JOINT RESOLUTION NO. 4.

Resolved by the Council of the Territory of Idaho, the House of Representatives concurring: That Hon. E. J. Curtis, of Boise City, be, and he is hereby, invited and requested by the Representatives at the Tenth Session of the Legislative Assembly, on behalf of the people of Idaho Territory, to prepare a reliable history and correct statistical record, showing in an authentic form the nature and extent of the agricultural resources and productions of this Territory; the lands and their adaptability to settlement and cultivation; its climate; its means and facilities for commerce and communication; the character, the variety and extent of its mineral deposits and precious metals, with a correct description of all recent discoveries of gold, silver, lead and copper mines, and mines of other valuable mineral; its timber, mountains and streams; its advantages for railroad enterprise and communication; the product of the mining districts, in gold and silver; its imports and exports, and its superior advantages for the establishment of manufactories; the extent and cost of transportation to and from the various commercial points in the Territory, and the nearest and most practicable points and routes to railroad communication; its population and the varied industries carried on in the Territory; the inducements which the Territory offers to labor and capital, together with a reference to its financial resources, and the laws in relation to property, and report the same in a suitable form for publication to the next session of the Legislative Assembly of Idaho, which honorable body is hereby invited to examine and receive the same, and publish such information if it shall prove acceptable, and to render and allow such compensation to the compiler thereof as may seem just and adequate for said services.

Resolved, That the secretary of Idaho, be, and he is hereby, required to make a duly certified copy of these resolutions and transmit the same to E. J. Curtis.

JOINT RESOLUTION.

WHEREAS, By virtue of Acts and Resolutions of the Congress of the United States, the Territory of Idaho becomes entitled to receive from the War Department, two thousand

arms, necessary to the protection of said Territory from attacks and depredations of hostile Indians, upon condition that said Territory, by the governor thereof, would give sufficient and lawful bond for the return of said arms, upon demand of the secretary of war, of which arms sixteen hundred and fifty have been received and bond given therefor, leaving three hundred and fifty yet to be received when needed, and like bond given; and,

WHEREAS, No law yet existing authorizing the giving of said bond or bonds; now, therefore,

Resolved, By the Legislative Assembly of the Territory of Idaho, that the bond already given in the emergency then existing, and all bonds necessary to be hereafter given for arms yet to be drawn, be fully legalized, made good and binding upon said Territory according to their terms.

APPROVED February 21, 1879.

JOINT RESOLUTION

Concerning the late Honorable Jesse McCaleb.

WHEREAS: We submit with feelings of profound sympathy and regret to the fatal dispensation of providence, that has summarily taken from his family and friends, a worthy and honored member of the ninth session of the territorial legislature by the hand of the ruthless and vindictive savage; and whilst we deprecate the inefficient measures taken by the general government to protect its frontier settlers, we deplore the loss of so true and good a man as the late Honorable Jesse McCaleb, a member of the ninth legislative assembly, who fell bravely at his post defending his family and friends on Lost river, Lemhi county, on the 11th day of August, 1878. Therefore; be it

Resolved, By the legislative assembly of the Territory of Idaho, that we acknowledge our appreciation of the sterling qualities of our late legislative colleague; his unassuming and gentlemanly deportment, his strict and faithful integrity in the discharge of his official duties, his unswerving fidelity to constitutional rights; and his nobility of soul, as manifested in all the walks of social and political life. It is therefore

Ordered, That this expression of our respect for the deceased, and sympathy for his bereaved family and the community of which he was an active and efficient member, be en-

rolled and transmitted to the family of the deceased, with the condolence of this legislative assembly; and that this preamble and resolution be spread on the minutes, and be recorded in the journals of the tenth legislative assembly.

APPROVED February 20, 1879.

HOUSE CONCURRENT RESOLUTION.

Resolved by the House of Representatives, the Council concurring, That the secretary of Idaho Territory be, and he is hereby directed to distribute to each member of both Houses (who may desire the same), one copy of the revised and compiled laws of Idaho Territory, and one copy of the laws of the Ninth Session of Idaho Territory; and he, the said secretary, is further directed to transmit by mail, as soon as they shall be printed, one copy of the laws and journals of the present Legislative Assembly, to each and every member of the Legislative Assembly.

APPROVED February 12, 1879.

COUNCIL CONCURRENT RESOLUTION NO. 1.

Resolved by the Council, the House of Representatives concurring: That a committee on finance of the council and the committee on ways and means of the house of representatives, be instructed to make a thorough investigation into the condition of affairs in the office of the territorial controller and treasurer with power to send for persons and papers; and they are also empowered to employ an expert or clerk to assist said committee in such investigation if necessary, and make their report at as early a day as possible.

APPROVED February 13, 1879.

COUNCIL CONCURRENT RESOLUTION NO. 3.

Resolved by the Council the House of Representatives concurring, That the sum of one hundred and fifty-four 40-100 dollars be appropriated out of any money in the territorial treasury as compensation for J. H. Wickersham, clerk em-

ployed by the committee on finance of the council and committee of ways and means of the house to examine into and report upon the books and accounts of the territorial controller and treasurer, and the territorial controller is hereby authorized and directed to draw his warrant on the territorial treasurer for said sum of one hundred and fifty-four 40-100 dollars in favor of said J. H. Wickersham, and the territorial treasurer is hereby authorized and required to pay the same out of any money in the territorial treasury not otherwise appropriated.

APPROVED February 21, 1879.

HOUSE MEMORIAL NO. 1.

To the Honorable the Secretary of War of the United States:

Your memorialists, the Legislative Assembly of the Territory of Idaho, would respectfully recommend the establishing of a military post at some suitable point on the western edge of Big Camas prairie, or on what is known as Little Camas prairie, in the county of Alturas, Idaho Territory. And your memorialists would represent, that the locality mentioned is yearly frequented by Bannocks and Shoshone Indians, who assemble here in large numbers to gather camas and other roots; that the last outbreak of these hostile tribes occurred here, and that this section is traversed by many Indian trails, and public highways leading to and from the Alturas mines. This post would be on a direct line between Fort Boise and Fort Hall, and could be maintained at a small cost, owing to the cheapness of hay, grain, and other supplies; all of which can be procured in the neighborhood. We would further represent that many thousand acres of fine agricultural lands are now lying idle for the want of protection to the settlers, and that the establishing of a military post in that locality would inaugurate a large and steady immigration to the Camas prairie country. We earnestly recommend that you give this matter your early and serious attention, as the lives and property of hundreds of settlers, miners, traders, herders and teamsters are endangered, and all industries and business must suffer as long as the people in this rich and extensive section of our Territory are left unprotected from the roving bands of Indians who are wont to look upon it as their exclusive property.

And your memorialists, as in duty bound, will every pray.

The Hon. Secretary of the Territory is hereby directed to forward a copy of this memorial to the Hon. Sec'y of War, and one to our Delegate in Congress.

APPROVED February 12, 1879.

COUNCIL MEMORIAL NO. 2.

To the Honorable the Senate and House of Representatives of the United States:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, beg leave to represent, that the present compensation for our services as legislators, as the statute is at present construed by the first controller of the treasury, as well as the future compensation of legislators and subordinate officers, as the law provides, is totally inadequate to meet the actual and necessary expenses attending a residence at the capital, with the large, but unavoidable amounts paid for traveling expenses. We do not want or expect to make money out of the federal government for our services as members and attaches of the Legislature, but we do feel as if we had a right to expect that such an allowance should be awarded to ourselves and our successors as would pay our necessary expenses whilst engaged in legislation, besides leaving us the profits of the commonest laborers of the country. Ordinary labor commands four or five dollars per day, while skilled labor commands far more than that. We do not wish to be regarded by your honorable body as finding fault with federal legislation in this regard, but do believe, if Congress knew the high prices of living, as well as the proportionate cost of everthing else in this Territory, they would allow a greater sum for our services, than four dollars per day. Considering the uniform kindness and liberality of the federal government to the people of the territories, and the reciprocal benefits arising from the relations of each to each, we have the fullest confidence that your honorable body will entertain this, our application for relief and grant us additional pay, in accordance with your judgment of our necessities. And your memorialists do most earnestly protest against the reduction in the number of subordinate officers of our respective Houses, as established by the Act approved April 19th, A. D. 1878, for the reason that it is physically impossible for the sergeant-at-arms to act in his own proper capacity and as door-keeper at

the same time; for the chief clerk to transact all the business devolving upon him; and for the enrolling and engrossing clerk to perform the duties of two clerks at once. If the Government of the United States does not desire to maintain the expenses attending the increase of officers referred to, we suggest that Congress repeal Section 1855 of the Revised Statutes, so that the territories may provide for themselves the means for the proper and legitimate transaction of business.

And your memorialists will ever pray.

COUNCIL MEMORIAL NO. 1.

To the Honorable Secretary of War:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, respectfully but earnestly recommend the establishing of a military post in Lemhi valley, Lemhi county, Idaho Territory, and that a sufficient amount of money be appropriated and set apart for said purpose.

Your petitioners in presenting this memorial, beg leave to call your attention to the exposed and isolated condition of the settlements in Lemhi valley and the Salmon river country. The Lemhi Indian reservation, reserved for the use and occupancy of the mixed bands of Bannocks, Shoshones and Sheep-Eaters, is about two hundred miles from Fort Hall, the nearest military post. The settlements in Lemhi and Salmon river valleys are surrounded on all sides by high and rugged mountains, with Indian trails leading into said valleys from all directions. Raiding bands of Indians must pass through or in the immediate vicinity of these valleys, in passing from east to west, or from west to east.

As evidence of these facts, we respectfully state that these valleys have for the last two years experienced frequent raids from hostile bands of savages, and have suffered great loss of life and property, in both the Nez Perce and Bannock wars. Had there been a military post in Lemhi valley the hostile Indians engaged in the Nez Perce and Bannock wars could easily have been intercepted and captured. A military post in Lemhi valley would not only give protection to the people who have suffered so much already, in loss of life and property, but would be the means of keeping in awe the Indians of the Lemhi agency, who have shown great signs of discontent, and only through the combined efforts of their chief,

Ten Doy, and influential citizens of Lemhi county, have been kept from joining the hostile Indians in the Nez Perce and Bannock wars.

This post would have the best geographical position possible to intercept raiding bands of Indians, passing through the country from west to east, and could receive its supplies from the Utah & Northern Railroad, over a good wagon road.

And your memorialists will ever pray.

HOUSE MEMORIAL NO. 2.

To the Honorable Postmaster General of the United States:

Your memorialists, the Legislative Assembly of the Territory of Idaho, would respectfully but earnestly recommend that a mail service of not less than two trips per week each way, from April 1st to December 1st, in each year, be established between Atlanta, in Alturas county, and Jordan Creek, in Lemhi county (both in the Territory of Idaho); and your memorialists would further represent that Jordan Creek postoffice is situated in the famous and fast growing mining district of Yankee Fork; that it is the only postoffice in said district, and that the population in its immediate vicinity is certain to exceed one thousand persons from and after the coming summer; that letters and mail matter destined to the capital of the Territory have to travel through Salmon City, and Ogden and other places in Utah Territory, making a distance of about 950 miles, and consuming a time of not less than nine days; that by the new route as recommended by us the time would be reduced to five days, and the distance to be traveled to 190 miles. Your memorialists would further represent that a daily mail service is already in operation between Atlanta, in Alturas county, and the Territorial capital, and that there is a good and passable trail from Atlanta to the said Jordan Creek postoffice, and that the distance between these two points is about 70 miles.

This service being very much needed, and one that would prove a great blessing to the people of one of the richest, though at present very isolated portion of our Territory, we ask of you that you give this matter your earnest attention.

And your memorialists will ever pray.

The Hon. Secretary is hereby requested to send a copy of

this memorial to the Hon. Postmaster-General, and one to our Delegate in Congress.

APPROVED, February 14, 1879.

COUNCIL MEMORIAL NO. 4.

To the Honorable the Senate and House of Representatives of the United States:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, would respectfully show that the military road recommended by Lieut. G. S. Wilson, U. S. A., in his report to the Secretary of War, viz.: from Fort Hall via Challis, Yankee Fork, Cape Horn, Bear valley, Long valley and Little Salmon valley, to Fort Lapwai, with a branch from Little Salmon via Indian valley, to Fort Boise, would be of great benefit to the people of this Territory in many ways.

It would open direct communication with the most extreme portions of our Territory, thereby saving the necessity of traveling around and through other states and territories in going to and from our Territorial capital; saving to our government many thousands of dollars in mileage paid to the members of our legislative bodies, and to our officers in conducting prisoners to our territorial prisons. Your memorialists would further respectfully represent, that along the proposed route are some of the finest agricultural lands of the Territory, which would soon be occupied by thrifty farmers, thereby bringing in a yearly revenue equal to the cost of building the road. Your memorialists would further state, that in their opinion, this road is a military necessity. It would bring the U. S. military posts in direct communication with each other by the shortest routes, making a saving of thousands of dollars annually in the transportation of troops and stores, and enable the military forces to rapidly concentrate in case of an Indian outbreak; and further, would be a means of preventing such outbreaks.

Therefore, we would most respectfully ask, in view of the facts set forth in this memorial, that you will give this matter your serious consideration and make the necessary appropriation to build the proposed road as recommended by Lieut. Wilson.

And your memorialists will ever pray.

COUNCIL MEMORIAL NO. 6.

To the Honorable the Senate and House of Representatives of the United States:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, most respectfully represent, that it has been the custom of the general government to grant liberally of the public lands to the territories for the establishment of universities; and that whilst Oregon (when a territory), Utah, Washington, and other territories, have severally received by donation from the general government (2) two townships—41,080 acres—for university purposes, the Territory of Idaho has not been so favored.

We therefore, your memorialists, earnestly pray that two townships of the public domain be donated to this Territory, as university lands; to be selected in legal subdivisions, under the direction of the Territorial Legislature.

And your memorialists will ever pray.

COUNCIL MEMORIAL NO. 7.

To the Honorable the Senate and House of Representatives in Congress assembled:

Your memorialists, the Legislative Assembly of the Territory of Idaho, most respectfully represent that this Territory is one of the main producers of the precious metals, and that silver constitutes the bulk of said precious metals. And your memorialists would most respectfully represent, that the law as it now stands, is working a very great hardship upon the miner and working classes, for the reason that speculators and brokers control the price of bullion, to the great injury of the masses. And we, your memorialists, do entreat and insist that your honorable body give this matter your serious consideration, in order that justice may be done to those who are the bone and sinew of the land; and to that end we, your memorialists, do pray your honorable body to enact some law authorizing the free coinage of silver; and further, that the assayer in charge of the government assay office at Boise City, Idaho, be authorized and instructed to purchase silver bullion in the same manner as now directed by law for the purchase of

gold bullion, and that the amount paid for said gold and silver bullion be the same as paid at the U. S. Mint in San Francisco.

And your memorialists will ever pray.

APPROVED February 13, 1879.

COUNCIL MEMORIAL NO. 8.

To the Hon. Secretary of the Interior of the United States:

Your memorialists, the Council and House of Representatives of the Territory of Idaho, most respectfully represent, that in our opinion the order to remove the Indians from the Lemhi reservation, I. T., to Fort Hall, I. T., should be immediately rescinded or changed in such a way that the Lemhi Indians be moved to a more suitable reservation on or near the Buffalo Range. We respectfully call your attention to the following facts in support of our views, viz.:

Ten Doy, the chief of the Lemhi Indians, has frequently entered his protest against being removed from his present agency to Fort Hall, and has expressed a willingness to be removed to Eastern Montana, or to any suitable place on or near the Buffalo Range. Ten Doy has at all times and under very trying circumstances, been a faithful and true friend to the whites. By forcing him to go to Fort Hall against his will and in opposition to the wishes of the most of his tribe, would in all probability break his friendship with the whites and incur his displeasure to that extent that he would become our enemy, and if forced over to our Indian enemies he would be the most formidable foe that Eastern Idaho could possibly have. Indians can, and frequently do, ride from Fort Hall to Lemhi agency in two days. These Indians should therefore be moved farther from their present haunts, and to a more suitable place than Fort Hall. Eastern and Southern Idaho have suffered so much already from the Fort Hall Indians that we earnestly and respectfully appeal to you, that the Fort Lemhi Indians be moved farther east, and not to Fort Hall agency.

And your memorialists as in duty bound will ever pray.

The Hon. Secretary is hereby directed to forward one copy of this memorial to the Hon. Secretary of the Interior, and one copy to the Hon. S. S. Fenn, our Delegate in Congress.

APPROVED February 13, 1879.

COUNCIL MEMORIAL NO. 9.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the Legislative Assembly of the Territory of Idaho, would most respectfully state, that during the Nez Perce war of 1877, and Bannock and Shoshone war of 1878, in this Territory, that several companies of volunteers were organized and performed military service under the direct command of the commanding officer of this Department. In support of the above facts, will cite you to the case of Capt. Ed. McConville, during the Nez Perce war of 1877, and to the case of Capt. A. J. Borland, during the Bannock and Shoshone war of 1878.

Capt. McConville raised a company of 18 men in June, 1877; was detailed to escort a government train from Lewiston, Idaho Territory, to Mount Idaho, by Capt. Spurgeon, U. S. A., then in command of the military post at Lewiston. After performing that duty, he reported to Gen. Howard and acted directly under his orders during the Nez Perce campaign in Idaho. [See Gen. Howard's Report of the Nez Perce Campaign.]

Capt. A. J. Borland raised a company of 18 men in Boise City, Idaho Territory, in July, 1878, was assigned to duty on the Weiser river; reported to and received orders from the U. S. military commander at Boise City, and drew rations regularly from the U. S. commissary. He remained on duty until September 13th, 1878. Your memorialists would further state that there are several other like cases in this Territory, and the orders, muster rolls, &c., are on file at the War Dept., in Washington, D. C.

In view of the fact that none of the volunteers who served in the above campaign have received any compensation whatever, we, your memorialists, would ask your honorable body to take such action as would secure to these men their just dues.

And your memorialists will ever pray.

The Secretary of the Territory is requested to forward a copy of the memorial to our Delegate in Congress, Hon. S. S. Fenn.

APPROVED February 13, 1879.

COUNCIL MEMORIAL NO. 5.

To the Honorable Secretary of War:

Your memorialists, the Council of the Legislative Assembly of the Territory of Idaho, would respectfully but earnestly recommend the establishing of a military post at Old Camp Lyon, situate on the boundary line between Idaho and Oregon, in the counties of Owyhee, in Idaho, and Baker, in Oregon, and that a sufficient amount of money be appropriated for that purpose.

Your memorialists would respectfully represent that the establishing of a military post at this point would help guard the whole south-western part of Idaho and south-eastern part of Oregon. That this point is directly in the line of march traversed by the Bannack Indians the past summer on their way to and from Mahogany and Stein's mountains. That we think, had there been a military post at this point, the great amount of depredation committed in Bruneau valley, at Stein's mountain, and in Eastern Oregon, would have been prevented. That a military post could be supported at small expense to the government owing to the low price of provisions, wood, grain and hay, all of which are raised in the immediate vicinity.

And your memorialists will ever pray.

HOUSE MEMORIAL NO. 4.

To the Honorable, the Senate and House of Representatives in Congress assembled, and to Honorable David S. Key, Postmaster-General, United States, Washington, D. C.

Your memorialists, the Legislative Assembly of the Territory of Idaho, at its Tenth Session thereof, would most respectfully but urgently ask for the establishment of a mail route, and for mail service to and from the following points in this Territory, to-wit: From Boise City, the capital of the Territory, to Upper Squaw creek, via Horseshoe Bend, to and from (weekly); and as reason therefor, would state that the citizens and residents living and settled at those points sustain great hardships in being deprived of the advantage of mail facilities; that these points are growing into thickly settled districts and must continue to increase in wealth and popu-

lation, and will at no distant day return to the government a just and adequate compensation for any outlay made in affording the people of these sections the proper mail privileges, to which they are justly entitled.

Trusting that the demand here made will be promptly ordered, your memorialists will ever pray.

The Honorable Secretary of the Territory of Idaho is hereby respectfully requested to transmit a duly certified copy of this memorial to Hon. S. S. Fenn, Delegate in Congress from Idaho, that he may present the same without delay and secure proper action in the premises.

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